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ABSTRACT

A hearing was held to explore the operations and effectiveness of the Student and Exchange Visitors System (SEVIS), a tracking system for foreign, nonimmigrant students. In February 2003, SEVIS became operational, and institutions of higher education are required to use the system when admitting new foreign students. Whether SEVIS goes far enough in protecting the United States from foreign criminals and terrorists and whether the system does everything possible to ensure that the student visa program does not endanger national security was discussed by hearing participants. Following opening statements by Representatives John N. Hostettler (Indiana), Lamar Smith (Texas), and Sheila Jackson Lee (Texas), the following witnesses testified: (1) Johnny N. Williams, Interim Director of Immigration Interior Enforcement, U.S. Department of Homeland Security; (2) Glenn A. Fine, Inspector General, U.S. Department of Justice; (3) Thomas P. Fischer, former District Director, Immigration and Naturalization Service; and (4) David War, President, American Council on Education. Also submitted for the record is a letter from Representative John Conyers, Jr. (Michigan). An appendix contains the prepared statements of some of the witnesses. Witnesses pointed out both the strengths and weaknesses of the SEVIS program as it operates. (SLD)

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HE 0234

NONIMMIGRANT STUDENT TRACKING: IMPLEMENTATION AND PROPOSED MODIFICATIONS

ED 480 946

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

APRIL 2, 2003

Serial No. 8

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NONIMMIGRANT STUDENT TRACKING: IMPLEMENTATION AND PROPOSED MODIFICATIONS

WEDNESDAY, APRIL 2, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:04 p.m., in Room 2141, Rayburn House Office Building, Hon. John N. Hostettler [Chairman of the Subcommittee] presiding.

Mr. HOSTETTLER. The Committee will come to order.

Our educational system is one of the strongest attractions that our country has to offer foreign citizens. In the last academic year alone, 582,996 aliens were attending colleges and universities in the United States. The education of foreign nationals in the United States has provided many benefits, both tangible and intangible, to our country. Many foreign leaders have obtained at least part of their education here and presumably have taken some of our democratic values back home with them. In addition, foreign students have contributed to the American economy.

Unfortunately, not all aliens who come to study in the United States come with benevolent intentions. In June 2000, the National Commission on Terrorism found that, "a small minority of foreign students may exploit their student status to support terrorist activity. The United States lacks the nationwide ability to monitor the immigration status of these students."

The student visa conveys a particularly valuable status to an alien terrorist because in the absence of an effective tracking system, an alien student can remain in the United States almost indefinitely. The truth of the Commission's findings was underscored in the wake of the September 11 terrorist attacks. Of the 19 identified hijackers, three were present in the United States on student visas. At least two of those terrorists gained skills to carry out those attacks at an American flight school.

Those attacks demonstrate how easily alien students who may pose a terrorist threat can enter the country. The September 11 attacks also demonstrate how critical it is to our national security for the Government to implement an effective system for tracking and monitoring foreign students in the United States.

The Government's efforts to establish a student tracking system date to the mid-1990's. In 1996, Congress directed the INS to set up an automated system to track foreign students in the United States as a result of action by a Member on this panel, Mr. Smith.

Following the September 11 attacks and the USA PATRIOT Act, Congress authorized more than $36 million to fully implement and expand the foreign student tracking system by January 1, 2003. In response to that mandate, the INS completed its development of the Student and Exchange Visitors System, or SEVIS. The agency required all schools that sought to admit foreign students to enroll in that system no later than January 30, 2003. As part of SEVIS enrollment, schools had to be recertified to accept non-immigrant students.

Because of technical problems with SEVIS, the INS extended the deadline for enrollment in SEVIS to February 15, 2003. SEVIS is now operational and schools are now required to use the system in admitting new foreign students. By August 1, 2003, the INS has decreed information on all non-immigrant students currently attending school in the United States will be entered into the system.

Some observers remain critical, however, both of the performance of the system and of the sufficiency of the INS's recertification of schools approved to accept foreign students. Some schools and academic organizations complain that the SEVIS system is slow and riddled with glitches and technical problems. Because of these problems, they question whether they will be able to meet the August 1, 2003, deadline for full SEVIS compliance. Critics have also complained that the Government has failed to provide sufficient training to school personnel and to its own employees to make the system work properly.

The Justice Department's Inspector General has voiced his own concerns about the INS's implementation of SEVIS. Specifically, in a March 2003 report, the Inspector General questioned the way in which the INS used contract employees to review schools during the recertification process, as well as other aspects of the INS's implementation of SEVIS. In fact, the Inspector General concluded that notwithstanding the Congressional mandate and the USA PATRIOT Act for full implementation of SEVIS by January 2003, that system is still not fully implemented.

Finally, some outside observers have asked whether SEVIS goes far enough in protecting the United States from foreign criminals and terrorists. They question whether SEVIS is doing everything possible to keep the American people safe from individuals who have come to this country to do us harm and to ensure that the student visa program promotes, rather than endangers, our national security.

We hope to explore all these issues at today's hearing. On a historical note, after it was revealed that a participant in the first World Trade Center bombing was an alien student who was out of status, a 1995 INS report concluded, "Americans have a fundamental basic expectation that their Government is effectively monitoring and controlling foreign students." That conclusion is as true today as it was 7 years ago, if not more so.

This Subcommittee will continue to monitor the Bureau of Immigration and Custom Enforcement's implementation of the student tracking system to ensure that it meets this expectation.

I am heartened by the priority that Assistant Secretary-designee Michael Garcia has given to this important project. Having prosecuted some of the plotters of the first World Trade Center bombing, he knows how high the stakes can be. I cannot imagine an individual better equipped to handle this task.

One final point, however. I note that this is the first hearing at which the Department of Homeland Security has sent a witness to testify before our Subcommittee. Unfortunately, the Department failed to submit its written testimony to this Subcommittee 48 hours in advance of this hearing, as requested by the Chairman of the Judiciary Committee, or even 24 hours in advance of the hearing. This appears to be a continuation of an unfortunate trend by the former INS.

Mr. Williams, I do not blame you for this and realize that this testimony was not presented in a timely manner because of the byzantine clearance process within the executive branch itself. The Department, however, is on notice that such a delay will not be tolerated in the future.

At this point, I would like to recognize the gentleman from Texas, if he has an opening statement.

Mr. SMITH. Thank you, Mr. Chairman. I do have an opening statement. The first thing I would like to do is to thank you again for taking the initiative to address such an important subject. This has been a subject that has been of previous interest to you, given another hearing on the general concept, but I appreciate your having the hearing today.

I also want to say that, unfortunately, the Science Committee on which I also sit is having a markup at the exact same time that we meet as Members of the Immigration Subcommittee, so I am going to have to shuttle between two Committees.

But the last thing to mention, Mr. Chairman, is that in 1996, Congress overwhelmingly approved an Immigration Reform Act that I happened to introduce, and it was signed into law by President Clinton, and among the provisions of that particular piece of legislation is one that said we needed a foreign student tracking system and it needed to be implemented immediately by five or more countries—in five or more countries, particularly those who sponsor terrorism and we would track the students coming from those countries, and then the program was supposed to have been expanded to other countries, as well.

I don't want to speculate whether the course of history would have been changed had the Clinton administration enforced that law instead of ignoring it, but it's certainly possible, and I have not made that statement in public before simply because I don't want to speculate. But at the same time, I think the entire country would have been better served had the previous Administration implemented the Immigration Reform Act as Congress has intended. I think there is a good chance that had the law been enforced, who knows. We might have apprehended one or more of the three terrorists who came in on student visas. We might have been unravel the conspiracy. You never know.

But no matter what, we would have been better served had we had a foreign student tracking system in existence several years ago rather than waiting until after a crisis occurred before we did the right thing, and I'm glad we're getting to that point. I know some of the testimony we are going to hear today is going to indicate that we still have a system that doesn't work as well as it should, and I'm hoping that that can be corrected.

I guess what I'm saying is, better late than never, but it certainly would have been better had we implemented a foreign student tracking system when Congress intended to do so, and that was back in 1996. Thank you, Mr. Chairman.

Mr. HOSTETTLER. Thank you for your insightful and timely comments.

Gentlemen, panel, I apologize. We are 10 minutes away from closure of a vote. I will recess the Subcommittee but bring it back to order very shortly after this vote. I believe it's just one vote that we will have, and so it should be over very shortly. I apologize for the delay and thank you for your indulgence. The Subcommittee is recessed.

[Recess.]

Mr. HOSTETTLER. The Subcommittee will reconvene.

At this point, I would recognize the Ranking Member of the Subcommittee, Ms. Jackson Lee, for any opening remarks she may make.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. I am delighted that this is a microphone that is somewhat camouflaging my very weak voice. I ask the Committee for its indulgence. I thank the Chairman very much for his kindness. When the meeting was gaveled, I was on the floor in debate, and as you well know, we began the voting very shortly thereafter.

Let me say to the witnesses that I also offer my apologies. We are supposed to be multi-dexterous, multi-faceted, but I think they want us to be triplets and quadruplets. I have a markup upstairs dealing with the Science Committee, and so I look to be in and out, but I look to be able to—hopefully will be able to engage these very fine witnesses, Mr. Chairman.

Let me briefly—first of all, I'd like to ask unanimous consent that my opening statement in its entirety be included in the record.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. I would ask that the record remain open for the submission of my colleagues, for their statements, as well.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. In addition, I have a letter from Mr. Conyers to Mr. Johnny Williams, who is the Interim Director of the Bureau of Immigration and Customs Enforcement and we would like to put this in the record and also submit this to Mr. Williams.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Thank you very much.

[The letter from Mr. Conyers follows:]

ONE HUNDRED EIGHTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-3951
http://www.house.gov/judiciary

April 2, 2003

Mr. Johnny N. Williams, Interim Director
Bureau of Immigration and Customs Enforcement
Department of Homeland Security
425 I Street, N.W., Suite 7114
Washington, DC 20536

Dear Mr. Williams:

Thank you for testifying at today's hearing regarding the implementation of the Student and Exchange Visitor Information System (SEVIS). In addition to the questions you answered at the hearing, I would appreciate you providing written answers to the following questions:

Colleges have reported that they have been contacted since September 11, 2001, by either the FBI or INS (or its successor) under this new program. The government has sought to collect information about students from Middle Eastern countries, such as what subjects the students were studying, their academic record, and housing arrangements.

A. Please identify the specific authority relied on to create this program.

B. How many colleges and universities were contacted by the government to obtain information on students?

C. What guidance was provided to U.S. Attorney's Offices and/or FBI offices with respect to questions that should be asked of such nationals?

D. What has been done with the information obtained from these schools and students?

E. Have there been any prosecutions or deportations as a result of these investigations? If so, how many and for what reason? What was the national origin, race, and ethnicity of the persons prosecuted or deported?

Please provide the Committee with a written answer to the above questions no later than April 9. If you have any questions, please feel free to contact Ms. Stacey Dansky of the Judiciary Committee at 225-2022. Thank you for your cooperation in this matter.

Sincerely,

John Conyers Jr.

John Conyers, Jr.
Ranking Member

cc: Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary

Ms. JACKSON LEE. Mr. Chairman, we need to keep track of foreign students while they are in this country, there is no doubt. But I want to emphasize that the primary reason for doing this is to enforce immigration laws and not necessarily to search for terrorists.

As I say that, let me also be very clear, having lived through 9/11 along with this nation and the world, I am quite well aware of the heightened emphasis on students and student visas. Certainly, I would be remiss not to acknowledge my own outrage that we were not able to track them effectively at that time or that visas were given to facilities that I thought may have been less than scholarly. I particularly was outraged that some of the students seem to have crafted their own curriculum, one that no one could understand. Let's take off, but let's not learn how to land. And none of that, of course, was triggered, or triggered anyone to call any of the authorities.

I guess my other concern was is that they were able to take these classes, Mr. Chairman, by giving a cash payment of $25,000. Hopefully, that is an issue that I may want to have us discuss in terms of foreign students and the way that the students' tuitions are paid.

I would simply say, Mr. Chairman, that we do have a problem. Despite news reports to the contrary, only one of the 9/11—this is referring to the issue that I discussed, however—into the country on a student visa, 18 entered on what we call B-visas, either as tourists or as business persons. So I think we should clarify some of the concerns that we may have with respect to student visas. It is still important to track them.

I'd like to emphasize that the SEVIS program, that is a program that needs to be implemented successfully. Enforcement's ability to track and monitor foreign students and exchange visitors in order to ensure that they arrive in the United States, show up, and register at the school or exchange, visit a program they are scheduled to attend, and properly maintain their status during a stay in our country is all dependent upon the successful utilization of SEVIS. SEVIS can be made easier for us to identify those who may come to America for the wrong reason, while extending our welcome to those seeking the knowledge that the schools of this country have to offer.

As I indicated, I would like the entire statement to be put into the record, but I would like to suggest, Mr. Chairman, that we recently had a hearing in the Science Committee noting that there is some difficulty in providing opportunity for—this is a parallel issue—for some of our finest researchers to come to this country. Certainly, we want to ensure that our nation is safe. But I have always said that this is a nation of immigrants and laws and it is a nation that does not equate immigration to terrorism.

As an aside, Mr. Chairman, as I conclude, let me note that many of our world leaders, such as Kofi Anan, Jordan's King Abdullah II, and Mexican President Vincente Fox were students on student visas. So let us be both effective and efficient, but let us be sensitive to how we can best utilize this process and help our universities.

Might I also say, Mr. Chairman, that we have made a commitment to sit down and establish a very full agenda for this particular Committee, and I'd like to publicly say, as you well know, we met just a week or so ago on my request in the plight of the Kesbeh family. I believe they should be a center point for some weak points in our immigration laws. Unfortunately, a God-fearing, if you will, or a country-loving family that happened to be without documentation was tragically deported last week and they had a 9-year-old citizen.

What fails in our immigration policies is that we fail in efficiency and effectiveness to be able to secure ourselves against the terrorists, and then we give this nation a very bad name by not being able to show its compassion and humanitarianism for those who truly simply want to be here because they love this country and they want to be part of the democracy which we represent. Yes, maybe without documentation, but because our laws are so antiquated, complex, it makes it very difficult.

I believe it is important that we put a face that is generous, that is efficient, effective, and provides security for this nation, and Mr. Chairman, I believe it is extremely important that we craft a response that has a humanitarian response, because I can assure you that we are a much better nation that those who happen to be immigrants can say to the countries around the world that this is, in fact, a place that really believes in its ideals of democracy, equality, and fairness and due process, and I think that is a better approach that we should take.

I thank the Chairman for his indulgence. I ask that my entire statement be submitted into the record.

Mr. HOSTETTLER. Once again, without objection. I thank the gentlelady for her comments.

Mr. HOSTETTLER. And now, I turn to our panel, introducing Johnny Williams, who has been the Interim Director of Immigration Interior Enforcement at the Bureau of Immigration and Customs Enforcement since March 1, 2003. In this position, he is responsible for managing and directing the immigration investigations, detention removals, and intelligence programs of ICE.

In the former INS, Mr. Williams was the Executive Associate Commissioner for Field Operations of the Immigration and Naturalization Service, a position that he held until that agency was transferred to the Department of Homeland Security. Prior to becoming the Executive Associate Commissioner at the INS, Mr. Williams was the INS's Western Regional Director, a position that he held since November 1997.

Before that, Mr. Williams served as Chief Patrol Agent for the San Diego Border Patrol, the largest Border Patrol sector in the nation. Mr. Williams began his career with the U.S. Border Patrol in 1971 as a trainee in Laredo, Texas. He attended Southwest Junior College, Laredo Junior College, and Texas A&I in Laredo, and Western New Mexico State University in Silver City, New Mexico.

The Honorable Glenn A. Fine is the Inspector General for the United States Department of Justice. He was confirmed as Inspector General for the Justice Department in December 2000. General Fine served as Acting Inspector General from August 2000 to December 2000. He has worked for the Inspector General's Office since January 1995.

General Fine was in private practice from 1989 to 1995. Prior to that, he served as an Assistant U.S. Attorney for the District of Columbia from 1986 to 1989. He is a graduate of Harvard College and Law School and he was a Rhodes Scholar.

Thomas Fischer is an immigration consultant in Atlanta, Georgia. From 1988 to 1999, Mr. Fischer was the District Director of the INS's Atlanta District Office. Most importantly for this hearing, Mr. Fischer was District Director in Atlanta at the time it was the pilot district for CIPRIS student tracking system. CIPRIS was the predecessor to the current SEVIS system that we are talking about today.

From 1979 to 1988, Mr. Fischer served as Director of Training for the INS as well as Director of the Officer Development and Training Facility at the Federal Law Enforcement Training Center. Prior to that, he was an Assistant Regional Commissioner in the INS's Southern Region in Dallas, Texas. He is a graduate of the State University College of New York-Fedonia and the University of Hawaii, from which he received a master's in educational psychology.

Mr. David Ward is the President of the American Council on Education. Dr. Ward is Chancellor Emeritus of the University of Wisconsin-Madison, where he received his doctorate in 1963. Prior to becoming Chancellor at the University of Wisconsin-Madison, Dr. Ward served as the Associate Dean of the graduate school at the university from 1980 to 1987, and as Vice Chancellor for Academic Affairs and Provost from 1989 to 1993. Dr. Ward also held the Andrew Hill Clark Professorship of Geography at the university and served as chair of the Geography Department there from 1970 to 1977.

Gentlemen, with unanimous consent and without objection, your statements may be entered into the record, and feel free to give your testimony. We are going to try to stay as close to the 5-minute rule as possible. I appreciate your sticking to that as much as you can. Mr. Williams, if you will begin.

STATEMENT OF JOHNNY N. WILLIAMS, INTERIM DIRECTOR, IMMIGRATION INTERIOR ENFORCEMENT, BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, UNITED STATES DEPARTMENT OF HOMELAND SECURITY

Mr. WILLIAMS. Good afternoon, Mr. Chairman, Members of the Committee. Thank you for the opportunity to bring you up to date on our Student Exchange Visitor Information System, SEVIS. This new computer system greatly enhances our capability to fulfill our obligations to register, to track, and to monitor foreign students applying to come to the United States to study.

SEVIS is designed to facilitate the structured entry of valid students into the United States. The system better positions us to combat fraud by making critical information available to Consular Officers when they are making visa issuance decisions. The same SEVIS information is available to our Officers at the Ports-of-Entry and to the adjudicators who review benefit applications at our Service Center. SEVIS serves as the collection point of entry information that will be used to monitor the students' compliance with terms of their student visa.

On March 1 of this year, the Immigration and Naturalization Service transitioned to the Department of Homeland Security. The responsibility of SEVIS under the Homeland Security Act was given to the Bureau of Immigration and Customs Enforcement, where it is now managed. Let me assure you, though, that although we have transitioned, we are working hand-in-hand with our sister bureau, Citizenship and Immigration Services, to assure a smooth transition and a partnership in meeting our joint obligation.

The Student Exchange and Visitor Program encompasses both SEVIS software and other critical functions, to include a certification process for schools, internal and external training, and the enforcement piece, as well. The software program is an Internet-based system that collects accurate and current information on foreign students. This information includes data about the individual's school admission, their visa issuance, and their entry into the United States.

Following the prospective student's entry into the U.S., the system then awaits and receives more required information on the actual registration for classes, program of study, program extensions, any change of address, and employment authorization, if permitted. We have worked hard to make SEVIS a program that embraces the needs of the student, the needs of the school, and the needs of the Government.

All approved schools are required to utilize SEVIS for new students as of February 15, 2003. Additional schools continue to apply for certification and they are adjudicated on a continuing basis. As of March 19, approximately 4,300 schools and 1,400 exchange programs have been certified and have been enrolled to utilize SEVIS.

We have established a help desk call center with a toll-free number dedicated to SEVIS numbers. This call center assists schools with their questions, provides a venue to report problems, as well as to obtain their suggestions for future enhancements to the system. We constantly monitor the call center to evaluate ways to increase its efficiency and to ensure the highest level of customer service.

SEVIS is supported by a team of talented, dedicated professionals, both from the public and private sector. We will continually seek the educational community's input and feedback to make this important system a continuing and sustained success. We will continue to examine and reexamine our methods to ensure and verify compliance with recordkeeping, reporting, and other requirements. We will continue to provide and embrace internal training for our officers as well as the training provided to those at the schools.

We believe that our interactions with the educational community and the educational associations are vitally important and they have provided us with key information and insight as we have rolled out this program. We host a conference call weekly with major educational organizations to convey information and to receive their feedback.

While appropriated funding of $36.8 million in FY 2002 was instrumental in our ability to develop SEVIS, the ongoing costs are envisioned by the statute to be supported by the collection of fees. Schools are charged a fee for the certification process, and once the regulations are promulgated, students will be charged a SEVIS processing fee, as well. These regulations are now under review, and until the regulation is promulgated, we will continue to allocate existing resources to this very important program.

In summary, SEVIS is an important component of the homeland security mosaic and one that we take very seriously. It's designed to be customer friendly and as transparent as possible for those seeking the exceptional education, training, and cultural opportunities our great country has to offer. But let me be clear. SEVIS better enables us to identify and track those who come to America for illicit reasons. While continuing to extend a hand in friendship, we are prepared to take swift enforcement action on those that come to violate our laws or do our country harm.

Thank you for the opportunity to provide the update and I look forward to your questions.

Mr. HOSTETTLER. Thank you, Mr. Williams.

[The prepared statement of Mr. Williams follows:]

PREPARED STATEMENT OF JOHNNY N. WILLIAMS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, thank you for the opportunity to update the Committee on the deployment of the Bureau of Immigration and Customs Enforcement's (ICE) Student and Exchange Visitor Information System (SEVIS)—a new Internet-based system that greatly enhances the government's ability to manage and monitor foreign students and exchange program visitors and their dependents during their stay in the United States. SEVIS maintains critical, up-to-date information that can be accessed electronically, making it a powerful tool for combating fraud and for ensuring that individuals comply with the terms of their visa, activities that are vital to enhancing homeland security.

State Department consular officers overseas now have instant access to this information, improving their ability to decide whether to issue a student visa. This information is also available to the Bureau of Customs and Border Protection (BCBP) officers at ports-of-entry (POEs), allowing them to better track the entry of students and exchange visitors and to guarantee that the visa holder is the same person to whom it was issued. Additionally, personnel at Bureau of Citizenship and Immigration Services (BCIS) Service Centers are using this information to better adjudicate applications for benefits.

SEVIS was initially a project of the Immigration and Naturalization Service (INS), where it was developed and deployed by the Immigration Services Division (now BCIS). When INS transitioned into the Department of Homeland Security (DHS) on March 1, responsibility for SEVIS shifted to ICE, as mandated by the Homeland Security Act. The two bureaus are working hand-in-hand to assure a smooth transition of the system.

The system is part of the overall Student and Exchange Visitor Program (SEVP), the other functions of which include certifying schools for accepting foreign students, internal and external training, fee collection, and enforcement. SEVIS tracks information about an individual's school admission, visa issuance, entry into the United States, registration for classes, changes of address, program of study, program extensions, and employment authorization. It enables schools and exchange program sponsors to quickly update information they are required to send to the DHS and the Department of State (DOS) throughout the duration of a student or exchange visitor's stay in the United States.

INS worked hard to meet the aggressive deadlines set forth in the statute. SEVIS was fully deployed and operational by January 1, 2003, as required by the USA PATRIOT Act. And, as of February 15, all DHS-approved schools and DOS-approved exchange programs were required to use SEVIS for all new foreign students and visitors.

The required use of SEVIS by schools and the implementation of its parent program are both being phased in. This phased approach, which is designed to ensure program integrity, was outlined in proposed regulations published in May 2002, highlighted in congressional testimony in the fall of 2002, and codified in final regulations in December 2002. This approach also provides necessary and adequate time for the schools to review the considerable existing data on their continuing students and enter it into SEVIS. All new and continuing foreign students and exchange visitors must be entered into the system no later than August 1, 2003. After August 1, the database will contain complete information on all foreign students and exchange visitors currently within the United States, and it will be the sole system used to monitor these non-immigrants.

As mentioned earlier, the other elements of SEVP include the collection of fees from schools, which will pay for the operation of SEVIS, and school certification. Our fee collection proposal is now under review. ICE will continually process requests for school certification under SEVIS. There will always be new schools seeking certification to use SEVIS, and those already certified must recertify every two years. As of March 19, approximately 4,300 schools (and numerous campuses for many of those schools) and 1,400 exchange programs had been certified and were enrolled to utilize SEVIS.

Since implementation, SEVIS has performed very effectively, but it has not been without issues. Most problems are quickly addressed and resolved. For example, the intermittent inability of some schools to access the system and users timing out before they could complete their desired task had occurred. In early March, the system was taken off line for 15 minutes and the necessary fixes were made to remedy these performance problems. Currently, the only outstanding issue has to do with an issue known as "bleeding," the unintended merging of data from one school to another which results in the printing of legitimate student information at the wrong institution. ICE has hired an additional contractor specifically to address this issue, which is an issue of privacy, not accuracy. The information in SEVIS is the important component of the system and how that information enhances our ability to track foreign students. Bleeding does not affect the accuracy of the foreign student information.

SEVIS is a new system, developed and deployed under an aggressive schedule. Any new system will have bugs and anomalies that must be addressed. SEVIS is supported by a team of talented and dedicated professionals, from both the public and private sectors. Although we cannot guarantee that this new Internet application will not have additional problems over the next year, we can assure you that any such problems shall be addressed immediately, aggressively and professionally.

The SEVP and its SEVIS application are works in progress and will continue to evolve. We continually examine our requirements and the educational community's feedback to make the system and the foreign student program sustained successes. We believe that our interactions with the educational community are vitally important. We have worked closely with many education associations including the American Council on Education, NAFSA: Association of International Educators, the National Association of State Universities and Land-Grant Colleges, and the California Community Colleges Chancellor's Office. In fact, we host a conference call at least once a month with the major educational organizations to convey information and to receive their feedback.

SEVIS is a learning process for ICE and the schools, who are being encouraged to contact the SEVIS Help Desk should they encounter any problems accessing or using the system. The Help Desk has been receiving more than 500 calls a day, a third of which have to do with changing a user password. We are looking to decrease demand on the Help Desk through greater automation which will allow our Help Desk officers to focus on more substantive issues. We take all problems seriously, and seek to address them aggressively.

As we move forward, we will continue to enhance internal training of DHS officers, as well as improve the SEVIS training provided to schools. Looking ahead to a constant two-year cycle of school certification reviews, we will be examining the best ways to verify the *bona fides* of currently certified schools and new schools seeking to use the system. Now that SEVIS is fully implemented and all schools enrolling non-immigrant foreign students are required to utilize the system, we will also continue to examine and re-examine methods used to verify compliance with record-keeping, reporting, and other SEVIS requirements.

The DHS and the DOS Office of Consular Affairs have established Datashare, under which SEVIS data are made available for verification purposes during the visa issuance process. The program also allows State to make all non-immigrant visa issuance data available to DHS systems. SEVIS extracts data on all the F (academic), M (vocational), and J (exchange visitor) records from the Datashare system, as required by statute, and also provides this information to the schools.

SEVIS is updated at the time of an individual student's entry to the United States. The Enhanced Border Security and Visa Entry Reform Act (Border Security Act) of 2002 requires schools to report foreign students who fail to enroll within 30 days of the schools' registration deadline. Schools appoint foreign student advisors who are required to maintain foreign student information and assist the students and the school in adhering to the laws and regulations of the Immigration and Nationality Act. These advisors, known as designated school officials, are responsible for reporting student "no shows" to the ICE Immigration Investigation Program Headquarters either by calling a dedicated toll-free number or by electronically "flagging" the student's record in SEVIS as a "no show". More than 1,800 "no shows" students have been reported to ICE through the toll-free number.

After a "no-show" has been reported, ICE has the Law Enforcement Support Center run database checks. All referrals confirmed to have entered the United States, and for which no record of departure exists, are subject to further indices searches. Student status violators who may present a heightened security risk are immediately referred to the ICE National Security Unit for appropriate action. All others are being prioritized based upon other factors such as criminal history and prior adverse immigration history, and then referred to the appropriate field office. All student violators are entered into the National Automated Immigration Lookout System to ensure replacement visas are not inadvertently issued, and to ensure any subsequent attempts to enter the United States are scrutinized. ICE is committed to enforcing our immigration laws against violators identified through SEVIS. This is founded in our belief that effective compliance enforcement against student violators is a critical component of the SEVIS system.

There has been some concern in the school community that SEVIS errors have been responsible for unwarranted enforcement actions being taken against students. ICE can assure the public that it does not rely solely on information in SEVIS. Prior to taking an enforcement action, ICE agents review each individual case, including interviewing potential violators, to confirm that action is warranted. ICE will only take action against immigration law violators when action is warranted.

SEVIS is part of the Homeland Security mosaic. It is deployed now and in the next year it will develop and grow as a program, increasing its ability to manage and monitor foreign students and exchange visitors in order to ensure that they arrive in the United States, register at the school or exchange visitor program, and maintain their status during their stay as valued guests in this country. SEVIS enhances our ability to detect and deter those who may come to America for nefarious purposes, while extending a hand in friendship to those seeking the exceptional education and training opportunities this great country has to offer. SEVIS allows our nation to strike the proper balance between openness to international students and exchange visitors and the necessary security obtained by enforcing our nation's laws.

I appreciate the opportunity to testify before the subcommittee today. I look forward to your questions.

Mr. HOSTETTLER. General Fine?

STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL, UNITED STATES DEPARTMENT OF JUSTICE

Mr. FINE. Mr. Chairman, Congresswoman Jackson Lee, Members of the Subcommittee, thank you for inviting me to testify about the implementation of SEVIS, the foreign student tracking system.

The Office of the Inspector General has conducted several reviews of this system. In a May 2002 report, we described our investigation of how the INS had mailed forms notifying a Florida flight school that two September 11 terrorists, Mohamed Atta and Marwan Alshehhi, had received approval to change their immigration status from visitors to students 6 months after they committed the terrorist attacks. In that report, we also examined the INS's monitoring of foreign students and raised serious concerns about the implementation of SEVIS.

In January of 2003, we began a follow-up review to assess the INS's progress in implementing SEVIS. Three weeks ago, we released our follow-up report, at which time the responsibilities of the INS had been transferred into the Department of Homeland Security.

Our follow-up review concluded that the INS had made significant progress in implementing SEVIS. SEVIS was operating and available at Department of State consular posts, INS service centers, INS district offices, and ports-of-entry. The INS had required all schools to reapply for approval to use SEVIS, and it had required non-accredited vocational schools, language schools, and flight schools to undergo an on-site review prior to approval. The INS also planned to conduct on-site reviews at all schools every 2 years.

Yet, despite the progress, we concluded that SEVIS is still not fully implemented. The INS asserted that SEVIS was fully implemented by January 1, 2003, the Congressionally mandated deadline, because it was operational as of that date. However, we believe full implementation requires more than technical availability of the system.

Also, while the SEVIS database contains information on newly-enrolled foreign students, it will not contain information on all continuing foreign students until August 1, 2003. Until then, the INS will continue to operate its inadequate paper-based system to monitor continuing foreign students.

In my testimony today, I will briefly summarize some of the continued gaps in the system, which are discussed in more detail in my written statement.

First, the INS hired contract investigators to conduct site visits of schools applying to accept foreign students. The INS provided the contractors with checklists to use in conducting the reviews. Our follow-up review found that the contractors' completed checklists were of limited use to INS adjudicators in determining whether a school was bona fide. We also found that the INS failed to properly train the contract investigators, test the checklists for usefulness and completeness, or monitor the quality of the contractors' on-site reviews.

Second, our follow-up review concluded that INS employees had not received sufficient training for performing school adjudications.

Third, at the time of our follow-up review, the INS had not fully trained its inspectors at ports-of-entry on how to use SEVIS.

Fourth, we recommended in our May 2002 report that the INS establish a separate unit at headquarters responsible for analyzing SEVIS data to identify fraudulent activity, such as sham schools and alien smuggling operations. The INS said that it hired a consulting firm to prepare a quarterly report analyzing SEVIS data, but the INS has not provided us with details on what actions will be taken in response to anomalies identified in the quarterly reports. While identifying noncompliance and potential fraud is a good first step, the process will be effectively only if these issues are referred for further investigation and enforcement action.

Fifth, although we did not do a technical review of the SEVIS system, we have heard that technical problems have impeded the ability of schools and immigration employees to efficiently use SEVIS. For example, we have heard complaints that the system is sluggish, takes a significant amount of time to access and input data, freezes frequently, and sometimes provides access to one school of another school's records. It is critical that these technical problems be overcome for the system to be usable and able to fulfill its mission.

Sixth, the transfer of the INS to the Department of Homeland Security creates a significant management challenge. Responsibility for the foreign student program and SEVIS has been shifted from one bureau in the INS, which had focused on providing immigration benefits, to another bureau, the DHS, which focuses on enforcement. We are concerned about the continuity of supervision of the program.

To help improve the implementation of SEVIS, we made several recommendations in our follow-up review, including that the INS, now the DHS, appoint a Foreign Student Program Manager to coordinate and be accountable for immigration issues affecting foreign students; monitor more closely the contract investigators to ensure that they conduct timely and thorough on-site reviews; coordinate with the Department of Education to conduct audits of schools to ensure that they are complying with SEVIS reporting and recordkeeping requirements; provide better training on SEVIS; ensure that sufficient investigative resources are available to investigate potential fraud identified by SEVIS.

In sum, we believe that SEVIS has the potential to significantly improve the monitoring of foreign students studying in the United States. We also found the INS had made significant progress in implementing the new system. However, additional steps still must be taken to fully implement SEVIS and to ensure that it is reliable, usable, and effective.

This concludes my statement. I would be happy to answer any questions.

Mr. HOSTETTLER. Thank you, General Fine.

[The prepared statement of Mr. Fine follows:]

PREPARED STATEMENT OF GLENN A. FINE

Statement of Glenn A. Fine
Inspector General, U.S. Department of Justice
before the
House Judiciary Committee
Subcommittee on Immigration, Border Security, and Claims
April 2, 2003

Mr. Chairman, Congresswoman Jackson Lee, and Members of the Subcommittee on Immigration, Border Security, and Claims:

I. INTRODUCTION

Thank you for inviting me to appear before the Subcommittee to testify about the implementation of the foreign student tracking system, the Student and Exchange Visitor Information System, or SEVIS.

The Office of the Inspector General (OIG) first examined the implementation of this system in a May 2002 report. In that report, we described our investigation of how the Immigration and Naturalization Service (INS) mailed forms notifying a Florida flight school that two September 11 terrorists, Mohamed Atta and Marwan Alshehhi, had received approval to change their immigration status from "visitors" to "students" six months after they died committing the terrorist attacks. We also discussed the INS's contacts with the two terrorists and how the INS handled their change-of-status applications. In addition, our report examined the INS's monitoring of foreign students and raised serious concerns about its implementation of SEVIS.

In September 2002, in a hearing before this Subcommittee, I described those concerns and questioned whether the INS would be able to meet the January 1, 2003, deadline established by Congress for full implementation of SEVIS. The concerns included whether the INS would assign and train sufficient numbers of dedicated staff to review and approve the schools that applied to use SEVIS, whether it would conduct sufficient and thorough site visits of schools applying to accept foreign students, whether it would adequately train school officials to use SEVIS, and whether it would train INS inspectors and investigators adequately to use SEVIS to detect fraud.

Since that hearing, the OIG has continued to examine the implementation of SEVIS, and last month we released a follow-up report that assessed the INS's progress in implementing that system. We found that the INS had made significant progress implementing SEVIS, including requiring previously approved schools to reapply for certification and requiring non-accredited vocational, language, and flight schools to undergo on-site reviews prior to providing them access to SEVIS. However, despite this progress, we concluded that SEVIS is not yet fully implemented and that significant deficiencies remain in its implementation.

In my testimony today, I first will discuss background on the foreign student program and then findings from our recent follow-up review on SEVIS. Finally, I will describe recommendations for improving the implementation of SEVIS. .

II. BACKGROUND ON THE FOREIGN STUDENT VISA PROCESS

The State Department is responsible for issuing student visas to foreign students who want to study in the United States. Formerly, it was the INS's responsibility to determine which schools were entitled to accept foreign students, to inspect the documentation of persons arriving with student visas, to keep track of the entries and exits of foreign students, to know whether students were continuing to maintain their status once in this country, to facilitate the removal of students once their status ended, and to approve appropriate requests by aliens who were in the country through some other classification to acquire student status. Responsibility for each of these obligations was divided among several different offices, divisions, and branches within the INS, as well as among private contractors working with the INS. The DHS now has responsibility for these functions, since March 1, 2003, when the INS was transferred to the DHS.

Historically, the INS has not handled these responsibilities adequately and has acknowledged that it does not know how many foreign students are in the United States. The INS also lacked accurate data about the schools that are authorized to issue I-20s (the INS form that contains identifying information about the school and the prospective student, including the course of study for which the student has been accepted and information about the student's financial resources). In addition, the INS lacked accurate data on individuals who obtain student visas, their current status, and whether fraud is being perpetuated in the foreign student program.

For example, an important component of the foreign student program is the school certification process, which allows the INS to ensure that a school is legitimate and not simply an operation designed to assist foreigners to enter or remain in the country fraudulently. Yet, our May 2002 review found that INS District offices assigned the responsibility for approving and recertifying schools to adjudicators or inspectors only as a collateral, low priority duty. We found that these inspectors and adjudicators – called "schools officers" – did not adequately review the schools' applications for certification or recertification. In addition, the INS rarely conducted site visits of schools prior to or after certification, but instead relied primarily on written representations from the schools.

In addition, INS investigators and adjudicators consistently reported to us that they believed fraud with I-20 forms was prevalent. The old, pre-SEVIS forms contained few security features and were relatively easy to counterfeit. Schools received multiple blank I-20s, and we found that many schools that were no longer approved to issue such forms still retained a supply of the forms.

Moreover, prior to SEVIS, the INS's database for recording information about the status of foreign students and schools relied on information from paper forms that were supposed to be sent to the INS and uploaded into a database. But we found the information inputted into this database was incomplete, unreliable, and riddled with inaccuracies. For example, of 200 schools we reviewed from the database's list of active schools, we found that 86 appeared to no longer be in operation. Of the 114 schools still in operation, 40 had incorrect addresses and 16 had incorrect names. Two of the schools in the database were not even approved to issue I-20s and should never have been in the system.

III. RESULTS OF OIG'S MARCH 2003 FOLLOW-UP REVIEW

Beginning in January 2003, we conducted a follow-up review to assess the INS's progress in implementing SEVIS. We interviewed INS Headquarters officials, INS adjudicators, INS training officers, and representatives from school associations. We also reviewed INS data on schools that had submitted applications for access to SEVIS, and we reviewed reports submitted by INS contract investigators who conducted site visits of schools.

In the follow-up report issued last month, we concluded that the INS had made significant progress in implementing SEVIS. To ensure the integrity of the SEVIS database, the INS is requiring all schools approved previously to host foreign students to reapply for approval and, in addition, is requiring non-accredited vocational schools, language schools, and flight schools to undergo an on-site review prior to approval. The INS also is planning to conduct on-site reviews at all schools every two years to verify that the schools are bona fide and are complying with SEVIS reporting and recordkeeping requirements. We also found that SEVIS is available at all Department of State consular posts, INS Service Centers, INS District offices, and ports of entry.

Yet, despite this progress, we concluded that SEVIS is still not fully implemented. The INS asserts that SEVIS was fully implemented by January 1, 2003, the congressionally mandated deadline, because it was technically available as of that date. However, as I stated in my September 2002 testimony before this Subcommittee, we believe full implementation includes not only technical availability of the system, but also ensuring that sufficient resources are devoted to the foreign student program; ensuring that only bona fide schools are provided access to SEVIS; ensuring that schools are completely and accurately entering information on their foreign students into SEVIS in a timely manner; providing adequate training for DHS employees and school representatives; and establishing procedures for using SEVIS data to identify noncompliant and fraudulent operations as well as following up when SEVIS data indicates fraud in a school's program.

Our follow-up review determined that most of these actions have not yet taken place. In addition, while the SEVIS database contains information on newly enrolled foreign students, it will not contain information on all continuing foreign students until August 1, 2003. Until then, the INS will continue to operate its inadequate, paper-based system to monitor continuing foreign students.

I will now summarize several deficiencies in SEVIS and the foreign student program that our follow up review identified.

A. School Certifications

The INS established January 30, 2003, as the mandatory implementation date by which all schools were required to begin issuing SEVIS I-20s to their new students. Because of the inaccuracy of the information in its old student database, the INS required all schools previously approved to accept foreign students to resubmit applications to obtain access to SEVIS.

The INS instituted a two-phased process for certifying schools to facilitate processing of the applications. In the first phase, effective July 1, 2002, through September 24, 2002, the INS established a preliminary enrollment period for schools that met certain requirements. These included public and private secondary schools, post-secondary schools, private elementary schools, language schools, and vocational schools as long they were accredited and had been approved by the INS within the past three years. Flight schools were prohibited from applying during this period. The INS deferred the required on-site review for these schools. According to the INS, it approved 1,418 schools during this preliminary enrollment period.

During the second phase, which began on September 25, 2002, the INS accepted applications from all other schools. All schools that applied during this phase were required to have an on-site review prior to approval. To ensure completion of the certification review by January 30, 2003, the INS "strongly encouraged" schools to submit their applications (called an "I-17") by November 15, 2002. Once the school submitted an electronic application, INS Headquarters directed one of three contract firms to conduct an on-site review at the school. INS District staff then adjudicated the schools' applications using on-site review reports submitted by the contractors and supporting documentation submitted by school officials to determine whether to grant the school access to SEVIS. A total of 2,856 schools submitted applications from September 25, 2002, through November 15, 2002.

The INS fell behind in its processing of the school applications and by January 30, 2003, had processed only 1,963 of these 2,856 applications. Moreover, as of January 30, 2003, the INS had not processed any of the 1,305 school applications it received after November 15, 2002. Our review found that these processing delays occurred for several reasons:

- The INS failed to dedicate sufficient field adjudication staff to the task. At six of the ten INS Districts we contacted, only one adjudicator had been assigned responsibility for processing school applications and this task was not adjudicators' full-time responsibility in two of these six Districts. We also found that officials at five of the ten INS District offices we contacted had assigned the primary responsibility for performing the school certifications to personnel with no prior experience in processing school applications.

- Technical problems with SEVIS impeded adjudicators' access to the system. At four of the ten INS Districts we contacted, several adjudicators had not yet been assigned passwords. At two other Districts, adjudicators complained of continual problems in using passwords.

- The contract investigators the INS hired to conduct on-site reviews often failed to collect documentation supporting the schools' applications. This oversight caused additional delays because the adjudicators were unable to process the applications without the supporting documentation. Consequently, the adjudicators had to spend additional time contacting the schools and waiting for them to send the missing documentation.

- One of the contract firms the INS hired to conduct on-site reviews failed to conduct the reviews in a timely manner. The INS gave its contractors ten working days to complete the on-site reviews and submit a report to the INS. As of January 16, 2003, the contract firm hired to perform the bulk of the reviews had submitted reports on only 545 of the 1,232 schools it had been assigned to review.

In addition to the application processing problems, SEVIS developed technical problems during January 2003 as more schools and foreign exchange visitor program sponsors began to access the system. Users had difficulty logging onto SEVIS, and as the volume of users grew the system became increasingly sluggish. Because of the technical problems and processing backlogs, the INS extended the mandatory compliance date from January 30 to

February 15, 2003. To help clear up its processing backlog, the INS also permitted public secondary schools and accredited schools to conditionally enroll in SEVIS without first requiring an on-site review. According to the INS, by February 15, 2003, adjudicators were able to complete their reviews of the 2,856 applications submitted by the schools by November 15, 2002.

B. Contract Investigators

Our May 2002 report was critical of the INS's failure at the time to conduct site visits of higher-risk schools – specifically language, vocational, and flight schools – to ensure they were bona fide. As noted above, the INS subsequently decided to require all schools applying for SEVIS access to undergo site visits. Due to the lack of sufficient in-house resources to conduct such reviews, the INS hired contract investigators to conduct these visits and provided them with INS-developed checklists to use in conducting their reviews. The contract investigators were required to submit copies of the completed checklists, along with the supporting documentation provided by the school, to INS field adjudicators who made the determination whether the school was bona fide and would be certified for access to SEVIS.

Our March 2003 follow-up review found that the contractors' completed checklists were of limited use to INS adjudicators in determining whether a school was bona fide. We found that the INS failed to properly train the contract investigators, test the checklist for usefulness and completeness, and monitor the quality of contract investigators' on-site reviews. The INS adjudicators we contacted complained that most of the checklists were sparse and contained little or no narrative comments about the physical characteristics or the operations of the school. In addition, adjudicators noted that, in some cases, even though a contract investigator had concluded on the checklist that the school was bona fide, other comments written on the checklist appeared to contradict this conclusion. Based on their contacts with school officials and their reviews of the completed checklists, some INS adjudicators questioned the thoroughness of the on-site visit, the basic knowledge of the contract investigators, and, in some instances, whether the on-site visits even were conducted.

We believe that the DHS needs to more closely monitor these contract investigators. In October 2002, we had discussed with INS officials the need to establish quality control over the on-site reviews, and they stated that they routinely reviewed copies of the contract investigators' on-site review checklists for completeness and timeliness. The INS did not agree with our suggestion to spot-check the contract investigators' reviews by re-visiting a sample of sites, but instead expressed confidence in the contract firms' abilities. Based upon our review of the process, and our interviews of INS adjudicators, we continue to believe that quality control reviews are necessary to ensure that contract investigators are conducting thorough reviews and are actually visiting schools and not just obtaining information telephonically.

C. Internal Controls

Our May 2002 report recommended that the INS conduct periodic audits of schools to ensure that the schools' internal controls are sufficient to prevent or detect fraud, and that the schools are entering data into SEVIS accurately, completely, and timely. In the past, alien smuggling rings were operated from within legitimate schools by individuals who were involved with the schools' foreign student programs.

The INS responded to our recommendation by indicating that the primary audit mechanism would be the on-site reviews conducted by the contract investigators. Using the INS-developed checklists, contract investigators are supposed to ask about school procedures related to internal controls. The investigators also are required to verify information from the schools' records for at least five foreign students selected from a list provided by the INS.

However, we do not consider these actions sufficient to identify a school's internal control weaknesses that could lead to fraud or sufficient to conclude that a school's SEVIS records are complete, accurate, and current. The INS-developed checklists do not address all internal control issues, such as whether the Designated School Officials are properly safeguarding their SEVIS passwords. In addition, five records is an insufficient sample from which to draw a conclusion about a school's compliance with SEVIS recordkeeping requirements.

The Department of Education already requires schools participating in federal student financial aid programs to obtain an independent audit. Therefore, we believe the DHS should coordinate with the Department of Education to incorporate SEVIS reviews into its required financial aid audits. While partnering with Education would address a significant number of schools, the DHS still would need to ensure the remaining schools were audited.

D. Training for Adjudicators and Inspectors

Our follow-up review found that INS adjudicators have not received adequate training for performing school adjudications, including what to look for when reviewing the contract investigator checklists and how to use the information provided on the checklists to identify fraudulent schools. As a result, there is no assurance that INS adjudicators are only approving bona fide schools for access to SEVIS. Although the INS conducted two training sessions last summer for adjudicators, the training primarily focused on the technical aspects of SEVIS. The adjudicators we contacted stated that they had not received training on how to use the completed contract investigator checklists to identify possible fraudulent operations or what to do if fraud was identified. In future training sessions for adjudicators, we strongly encourage the DHS to focus more on the adjudication process and how to identify fraud.

Further, although new foreign students currently are using SEVIS-generated documents to enter the United States, at the time of our follow-up review the INS had not fully trained its inspectors at ports of entry on how to use SEVIS to identify whether an alien is a legitimate student. It is crucial that these inspectors receive adequate training in SEVIS, because they are the first line of defense in preventing mala fide individuals from entering the United States. At the time of our review, the INS had only recently begun providing formal training to its inspectors at ports of entry. In general, we found the only fully trained inspectors were those at ports of entry where an inspector was responsible for certifying schools and therefore had attended the INS's adjudicator training sessions.

E. Using SEVIS to Identify Fraud

Our May 2002 report recommended that the INS establish a separate unit at Headquarters responsible for analyzing SEVIS data to identify non-compliant and possibly fraudulent activity, such as sham schools and alien smuggling operations. In response to our recommendation, the INS stated that in September 2002 it hired a consulting firm to prepare a quarterly report identifying no-show rates, drop-out rates, and failures for each INS-approved school. The report also will show INS processing times for I-17 applications. In its response, however, the INS did not provide us with any details on what actions will be taken in response to anomalies identified in the quarterly reports. While identifying non-compliance and potential fraud is a good first step, the process will be effective only if such instances are referred for further investigation and enforcement action.

In this regard, we found that the INS had not committed sufficient resources to investigate potential fraud in the foreign student program. The INS has taken some action since our original review to identify, locate, and detain aliens who enter the United States on a student visa but fail to attend school. As required by the Enhanced Border Security and Visa Entry Reform Act of 2001, schools are reporting to DHS the names of foreign students who fail to enroll or begin participation in a course of study within 30 days after the deadline for registering for classes. We also were told that DHS Headquarters investigative staff is now entering names of probable "no-shows" into the National Automated Immigration Lookout System to identify these aliens as "out-of-status" should they leave the United States and attempt to re-enter.

In addition, we believe the DHS should commit resources to identify schools that are fraudulent, school officers who commit fraud, and students

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who complete their programs but fail to depart the United States. Our May 2002 report suggested that the INS use fees paid by foreign students to help fund additional investigator positions. We continue to believe that this is an appropriate strategy for ensuring sufficient numbers of investigators dedicated to investigating foreign student program fraud.

IV. CONCLUSIONS

Once fully implemented, SEVIS should provide a more effective mechanism to monitor both foreign students and the schools they attend. However, we found that significant gaps remain in its implementation. Our March 2003 follow-up report offers eight recommendations to help improve the effectiveness of SEVIS and the DHS's program to monitor foreign students attending United States schools. These recommendations include:

- Appointing a foreign student program manager to coordinate, and be accountable for, immigration issues affecting foreign students.
- Assigning full-time staff whose sole responsibility is to certify and monitor schools.
- Monitoring closely the contract investigators to ensure that they conduct timely and thorough on-site reviews.
- Improving the checklists used by the contract investigators in their on-site reviews to make them more descriptive and more useful to the adjudications staff.
- Coordinating with the Department of Education to conduct audits of schools to ensure they are complying with SEVIS reporting and recordkeeping requirements.
- Providing training to those responsible for certifying schools on the adjudication process and on using the contract investigator checklists to identify fraud indicators.
- Ensuring that possible fraud identified through the adjudication process and through analytical reviews is referred for investigation; and
- Ensuring that sufficient investigative resources are available to investigate instances of potential fraud identified by SEVIS.

Finally, the transfer of the INS to the DHS creates additional management challenges. Responsibility for the foreign student program and SEVIS has shifted from a bureau in the INS focused on providing immigration benefits to a bureau in the DHS responsible for enforcement. We are concerned about the continuity of supervision of the program. Among other issues, DHS officials will need to identify personnel in the new organization responsible for certifying schools so that they receive sufficient training and guidance to administer the program effectively.

In sum, we believe that SEVIS has the potential to significantly improve the monitoring of foreign students studying in the United States, and the INS has made significant progress in implementing the new system. However, significant steps still must be taken to ensure that SEVIS is fully implemented, reliable, and effective.

This concludes my prepared statement. I would be pleased to answer any questions.

Mr. HOSTETTLER. Mr. Fischer?

STATEMENT OF THOMAS P. FISCHER, FORMER DISTRICT DIRECTOR, ATLANTA DISTRICT, IMMIGRATION AND NATURALIZATION SERVICE

Mr. FISCHER. Mr. Chairman, Members of the Committee, thank you for inviting me to your hearing and allowing me to provide you my insight regarding the current Bureau of Citizenship and Immigration Services development and implementation of the Student and Exchange Visitor Information System, SEVIS.

As you are aware, this program was developed to track and monitor foreign student educational participation in academic and vocational schools within the United States. Before I address my comments regarding the SEVIS program, I feel it is important to look at the genesis of the student enrollment and tracking process before SEVIS was implemented. The purpose of this is not to walk down memory lane, but to provide all the Committee Members an insight that may be helpful, since the purpose of this hearing is to evaluate the implementation of SEVIS and promote possible modifications to the system that might improve its performance and functionality in the war against terrorism.

To do this, I believe it is important to review certain actions the former Immigration and Naturalization Service implemented in the mid-1990's. Although to some degree the March 2003 Department of Justice report partially addresses this issue, it nevertheless misses the mark on more relevant and critical shortcomings of SEVIS.

My written comments provide all of the specific information and data that will allow you to evaluate the current SEVIS program and its forerunner, CIPRIS, Coordinated Interagency Partnership Regulating International Students, which began in 1997 as a pilot test and part of an interagency task force partnership group with national program development initiatives. However, full development of a national CIPRIS system was halted by the INS in October 1999. This action dramatically scaled down the program and reduced the development of a national system to a state that can best be described as one of minimal life support.

As you are aware, the INS has been charged with conducting a program to approve schools and universities that lead to the granting of degrees with course work in many areas, such as accounting, chemistry, engineering, fine arts, and nuclear science, to name a few. This was a paper-based process for establishing visa eligibility for participation of those foreign students who were eligible and received from the Department of State non-immigrant visas in the F, M, and J classifications, including their dependents.

During the mid-1990's, many INS field and headquarters officials were concerned about the abuses in the program and its effect on U.S. security. They were also aware that the current system lacked any way to accurately identify the names and locations of foreign students within the U.S. and their program participation. Also, they were very concerned with the apparent inability of State Department and INS field offices to have a database at their disposal that could prevent issuance of visas to those ineligible to receive them and also monitoring databases with peripheral related information such as financial databases, NCIC, Interpol, and others. This concern was shared by the FBI, which alerted the Deputy Attorney General to the problem in 1995, who, in turn, directed INS to address the issue.

Based on this concern, INS established a task force in 1995 that was to address the concerns of those offices that year. A task force was established and their findings were reported in December 1995 and they basically said they exposed the extent of weaknesses and vulnerabilities inherent in the program and the ease with which terrorists, criminals, and others could take advantage of the program to gain entry and freedom of movement through the U.S. without being effectively screened, monitored, or tracked.

In 1997, a workshop was convened in Atlanta, Georgia, with the CIPRIS task force program leader from headquarters convening this meeting. A summary paper was established in April 1999 and that summary paper outlined an all-electronic interactive process that would effectively eliminate all F, M, and J non-immigrant visa fraud as observed earlier, for example, forged documents, counterfeit supporting documents, and the like, and created a process that expanded the screening to include on-site real-time registration information as well as course major participation and location of the student.

In addition, CIPRIS would have had a complete relational database on every school, training program, and exchange program, electronic images of signatures, and a complete electronic file on every school or program to provide matches on lookouts based on schools and programs suspected of fraud and mollified activities that could quickly be checked or flagged prior to visa processing or in connection with any admission to the U.S. or benefit being applied for to the INS.

A review of the current SEVIS program and its fact gathering as well as its foreign student and institutional monitoring capabilities indicates to me a dumbed-down version of CIPRIS. For example, a review indicates many in SEVIS—of the critical capabilities of CIPRIS, excuse me, have not been included in SEVIS, which I believe undermines the program objectives.

For example, there is no coordination with FINCEN for financial checking of the student's source of funds. Also, if the non-immigrant visa is issued and the student is admitted and does not register within a 30-day period, there is no procedure to interview the prospective student or take them into custody. A referral to investigations in many cases will go unanswered since there is no written policy and minimal resources within investigations to investigate this action. Also, the current student adjudicating officers have had minimal training and realize the program will be transferred to BICE within a year. In my opinion, there is no resident expertise within BICE at this time knowledgeable of the rules and regulations governing the student and exchange visitor program.

In closing, it should be noted that the CIPRIS program was established to be a proactive search engine that would assist all others, but more important, flag violators, identify trends that could violate the program objectives. SEVIS, on the other hand, appears to me to be configured to be user friendly, a database with no serious or thorough means of ferreting out violators or trends or cross-check with other pertinent Government databases.

Thank you for the opportunity to comment.

Mr. HOSTETTLER. Thank you, Mr. Fischer.

[The prepared statement of Mr. Fischer follows:]

PREPARED STATEMENT OF THOMAS P. FISCHER

Mr. Chairman, Members of the Committee, thank you for inviting me to your hearing, and allowing me to provide you my insight regarding the current Bureau of Citizenship and Immigration Services (BCIS) development and implementation of the Student and Exchange Visitor Information System (SEVIS). As you are aware, this program was developed to track and monitor foreign student educational participation in academic and vocational schools within the United States.

Before I address my comments regarding the SEVIS program, I feel it is important to look at the genesis of the student enrollment and tracking process before SEVIS was implemented. The purpose of this is not to "walk down memory lane", but to provide all of the Committee members an insight that may be helpful since the purpose of this hearing is to evaluate the implementation of SEVIS, and promote ". . . possible modifications to the system that might improve its performance and functionality in the war against terrorism."

To do this, I believe it is important to review certain actions the former Immigration and Naturalization Service (INS) implemented in the mid 1990's. Although to some degree the March 2003 Department of Justice report titled *Follow-up Review on the INS' Efforts to Track Foreign Students in the US through the Student and Exchange Visitor Information System*, (Report Number I–2003–003, March 2003) partially addresses this issue, it nevertheless misses the mark on more relevant and critical shortcomings of SEVIS. I will try to provide more specific information and data that hopefully will allow you to evaluate the current SEVIS program, and its forerunner, CIPRIS (Coordinated Interagency Partnership Regulating International Students), which began in 1997 as a "pilot test" and part of an interagency taskforce partnership group, with national program development initiatives. However, full development of a national CIPRIS system was halted by former INS Deputy Commissioner Mary Ann Wyrsch in October 1999. This action dramatically scaled down the program and reduced the development of a national system to a state that can best be described as one of "minimal life support."

As you are aware, since the end of the Second World War, the INS has been charged with conducting a program to approve schools (vocational and academic) and universities to participate in a program that allowed foreign nationals to come to the United States (US) and take courses of study in any academic area that may enhance their skill level (English language training, pilot training, vocational training), or lead to receiving a degree of academic achievement in a specific area (BS, BA, MA, MBA, PhD), with course work in many areas such as accounting, chemistry, engineering, fine arts, and nuclear science to name a few.

This was a paper-based process for establishing visa eligibility for participation of those foreign students who were eligible, and who received from the U.S. Department of State non-immigrant visas (NIV) in the F, M or J classifications, for themselves and their dependents. The program has allowed over two million foreign students to come to the US for study, and generally the INS admitted them as F/M/J non-immigrants, and on their I–94 (Arrival/Departure Card) showed the authorized length of stay as D/S, Duration of Status. This meant that there was not any specific date to leave the US, or to coincide with the ending date on the F–1 NIV issued by the DOS, or the ending date of their course of study or proposed graduation. This allowed much flexibility for the schools as well as the students for both transition to other programs or degrees, full-time employment as an H–1B, as well as the possibility for abusing the guidelines. It also resulted in abuses both by schools and students failing to abide by the legitimate terms of the programs.

The program going back to the early 1980's that provided this "flexibility" was the Student and Schools System (STSC) program. Unfortunately, there was no immediate database or system against which the Department of State consular officer could check, and to verify the authenticity of supporting documents and information on key eligibility forms, such as the I–20 and IAP–66. The review was done on an ad hoc basis by the DOS with varying operating policies depending on the embassy and its staff. Once issued the NIV, and admitted by the INS, the student was "supposed to be monitored by at the mercy" of the designated school official who was delegated by the INS awesome responsibility, and acted as a surrogate INS adjudicator/information officer/school officer. However, as you can imagine, this arrangement made for wide spread abuses, committed by both students and Designated School Officials.

The schools in many cases had just as porous of a tracking system and record keeping process, and experienced document fraud as well. Academic drop outs, "no shows" and the like, could not be tracked and, even if they were reported and identified, there was no means for them being found or apprehended.

During the mid-1990's, many INS field and headquarters officials were concerned about abuses in the program and its affect on US security. They also were aware that the current system lacked any way to accurately identify the names and locations of foreign students within the US and their program participation. Also, they were very concerned with the apparent inability of State Department and INS field officials to have a database at their disposal that could prevent issuance of visas to those ineligible to receive them, or monitoring databases with peripheral related information, such as financial databases, NCIC, Interpol and others. This concern was shared by the FBI, which alerted the Deputy Attorney General to the problem in 1995, who in turn directed INS to address the issue. Based on this concern, INS established a Task Force in 1995 that was to address the concerns of these officers, and that task force convened on a fairly regular basis that year. The Task Force issued its findings and recommendations in a December 1995 report on the extensive weaknesses and vulnerabilities inherent in the program, and the ease with which terrorists, criminals, etc., could take advantage of the program to gain entry and freedom of movement throughout the U.S. without being effectively screened, monitored or tracked. It should be mentioned that historically there are over 500,000 foreign students in the US on any given day, with generous travel and work provisions delegated to the DSO.

The following year, partially in response to the Task Force's report and recommendations, Public Law 104–208 (IIRIRA) was passed by the Congress. One of the features of that legislation required INS to develop a system to collect foreign student information electronically from colleges and universities in order to screen, monitor, and track them. The INS moved ahead with a program to meet these Congressional mandates, planning a new electronic tracking process. This program was named CIPRIS, and the Atlanta District of the INS, of which I was the District Director at the time, was identified in 1997 as the pilot District for development and implementation of a "test concept" pilot program.

It was determined by the INS officials at all levels that in order to succeed and develop a sound, relevant workable program would require the assistance and commitment of all participating parties and organizations. This included Federal officials, school and university officials, and parent organizations of those groups (National Association of Foreign Student Advisors—AFSA), and where appropriate other individuals with a stake in the project.

In April 1997, a workshop was convened in Atlanta, Georgia by the CIPRIS Task Force Project Leader, Mr. Morrie Berez, from INS Headquarters. Mr. Berez was involved with CIPRIS from the beginning as the leader of the original Task Force and author of the Task Force's report. I believe that it can be accurately stated for the record that Mr. Berez was the principal architect of the program. Over 20 schools and exchange programs participated in this partnership session, with representatives from institutions of higher education such as the University of Alabama, Duke University, Auburn, Shaw University, and Mercer University, as well as vocational schools institutions that provided flight training and English as a second language training. Through evaluation and "lessons learned" from the pilot, and extensive involvement of key stakeholders from both government and schools, the elements and features of a sophisticated, computer-based proactive national CIPRIS system were outlined in a summary paper in April 1999.

The summary paper outlined an all electronic interactive process that would effectively eliminate all F/M/J NIV visa fraud as observed earlier (forged documents, counterfeit supporting documents, etc.) and created a process that expanded the screening to include on-site real time registration information as well as course/major participation and location of student. The national program envisioned in the paper was aimed at guarding against criminals and known and suspected terrorists being able to slip into the U.S. under the guise of students or exchange visitors.

The highlights of the envisioned national CIPRIS program included the following features that were not part of the current STSC program, and for the most part are not included in the design or plans for SEVIS.

These features can be condensed into 20 basic areas as follows:

1) The identifying information in the CIPRIS transmission actions would include the alien's full name, COB, DOB, gender, and passport number (if the

alien possessed a passport at time of application to the school), major area of study or training, school, address and other routine data.

2) In addition to the basic identifying information in item 1 above, the school would also capture and transmit to a national CIPRIS system the full name of the applicant's father and mother, all siblings, and their dates and places of birth. "A fully realized national CIPRIS would also require that the school capture and enter into CIPRIS the student's last two addresses abroad for the past 3 years, last job, job title and place of employment, last school attended and areas of study, as well as the source of funding for the student's program of study including the account type and account number. Also included would be the name and address of the bank or entity containing the funds, and the full identity of the person or organization who "owns" the account.

3) Upon receipt of the transmitted data from the school, a national CIPRIS program would then instantly verify the legitimacy of the school/sponsor and the DSO, as well as the study program information.

4) A national CIPRIS would do a "lookout" pre-screen, running the identifying data against all pertinent lookout systems (NAILS, IBIS, INTERPOL, TECS, etc.), as well as running the applicant's information against risk assessment models for fraud and national security.

5) A national CIPRIS would also instantly transmit the "source of funding" money account to FinCEN at the Department of Treasury to prescreen against laundered funds as well as to possibly "flag" an account or institution as being associated with illicit or terrorist-related funds transactions.

6) A national CIPRIS also would cross-check all existing records within its data base (being a relational data base) to identify and flag any previous or duplicate records within the CIPRIS system relating to the "new" record entry that has been transmitted by the school to CIPRIS, and if a duplicate match is found, flagging the record as a possible duplicate for review and verification by a CIPRIS action aide who would either determine that the case is or is not a duplicate and clear the transaction to proceed, or, if a duplicate, initiate automated file consolidation within CIPRIS, thus eliminating duplicate or multi records.

7) The cross-check lookouts and file duplication search would be all automated and would run within seconds.

8) Where a record is flagged either because of a "lookout hit" or a FinCEN "possible", then it would automatically be routed to both an INS investigative desk officer as well as a Defense Intelligence Agency (DIA) analyst for possible investigation for fraud, criminal alien, terrorist affiliation, etc. The system would send a notice to the school that the record has been referred for review and that it may take up to 30 days for the system to respond with an outcome, either a "go" to issue eligibility document, or a "hold" wherein no authorization can be forthcoming and the school must contact INS directly regarding the particular record.

9) The system would process and issue a "go" or "hold" on a record within 24 hours of receipt and processing.

10) In the case of a "go" (expected to be the case 95% of the time) the school would proceed to the next steps in the business process, receiving back from the CIPRIS system electronically the ability to generate a bar-coded notice that then goes to the alien overseas as required in order to apply for the appropriate F, J or M nonimmigrant visa (or change of status if already in the U.S. as a visitor). This notice would eliminate the form I–20 (still issued in SEVIS) to further lessen the opportunity for counterfeiting or duplicating such documents fraudulently.

11) If overseas, the alien would bring the notice with them to the American consulate along with their supporting evidence for applying for the visa. At the Consulate, the Consular Officer verifies the legitimacy of the alien's record instantly through direct access to the CIPRIS data. If the school/sponsor record (validated by INS) is not in CIPRIS at the point of visa application or if it's in CIPRIS with "flag" holding it for investigation, the alien is refused a visa. Simply put, if there is no INS-validated record in CIPRIS that is immediately accessible at the visa post, or if the case is on "hold" as a possible criminal or terrorist, etc., then there is no visa issuance. Any applicant presenting a CIPRIS notice must have a validated and "cleared" electronic record in CIPRIS, or no notice could ever be issued,

and the likelihood is that the alien is presenting a counterfeit notice in their attempt to obtain the visa.

12) If there's a "go" in CIPRIS thus proving prima facie eligibility for an F/M/J visa, the consular officer can then more thoroughly screen and interview the applicant and verify the authenticity of supporting evidence. If the visa is approved or denied, then the action is entered immediately into the DOS CLASS system by the consular officer, which in turn automatically updates the CIPRIS record. If approved, the visa information, passport information, and photo/fingerprint of the alien are downloaded immediately into the CIPRIS system from the visa post, updating the alien's CIPRIS record, and CIPRIS electronically notifies the school/sponsor of the alien's visa issuance based on their record.

13) The visa produced and issued to the alien would be a credit card size combination Visa/Identity card, containing identifying information together with the alien's photograph and fingerprint both on the face of the card, and encoded in a machine readable code on the back of the card (corresponding to the photo and print that were captured by the consulate and downloaded to CIPRIS). This combination Visa/Identity card would have a master ID number that serves as both the visa and alien identification number.

14) When the alien travels to and seeks admission to the U.S. at a POE, based on the data-share interfaces (that include the CIPRIS transactions at the Consulate), the Inspector is able to verify the Visa/ID card, passport, and appearance of the alien against the data from CIPRIS (including having scanned the machine readable code on the back of the Visa/ID card that includes the photo and fingerprint appearing on the front face of the card, and matching them to the visa issuance update in CIPRIS). This all electronic process/system affords continual validation and verification, from initial transmission of the eligibility record to CIPRIS from the school/sponsor through to visa application, photo/fingerprint capture and visa/id card issuance at the consulate, and entry at the POE. If the alien is admitted, deferred or denied admission, this action immediately updates the alien's record in CIPRIS, automatically assigning a record transaction number within the system for each action against the master alien ID number (which corresponds to the number on the Visa/ID card) and, at the same time electronically notifying the school/sponsor each action through CIPRIS via the Internet.

15) Upon enrollment/registration at the school/exchange program, the school/exchange program verifies the identity and bona fides of the alien student by looking at their Visa/ID card against the record of "their" student in CIPRIS, which action automatically electronically notifies CIPRIS via the Internet of the alien's arrival and enrollment in school.

16) Upon admission by the POE of the student/exchange visitor, or granting of change of status by the Service Center, the CIPRIS system commences a 60-day clock, which monitors the record awaiting electronic file update confirmation from the school or exchange program that the alien has in fact enrolled in school or commenced participation in the exchange program. If CIPRIS receives no such online Visa/ID confirmation check from the school per step 15 above, then CIPRIS automatically flags the record to generate an automatic electronic notice to the school/program directing the school/program to confirm by a date-certain (within 10 business days) that the student/exchange visitor has either enrolled, is a "no show" (or per step 17 below has completed or extended his/her program.)

17) If the school program confirms that the student did in fact enroll, then CIPRIS would update the record, but would also send a warning notice to the school or program that its failure to confirm the alien's identification against the CIPRIS system within the 60-day required timeframe is a violation of procedure and that repeated violations by the school or program could subject it to having its authorization withdrawn to enroll foreign students and/or exchange visitors.

18) The CIPRIS system would then monitor each "enrolled" student/exchange visitor record for regular report updates each semester to verify continued enrollment and academic or other standing with each semester/term. It would be designed to receive regular updates from each school's registrar system, so that each change in any foreign student's data as entered into the registrar's data base would automatically be copied to a special CIPRIS

update file for regular update transmission to the national CIPRIS system. This would eliminate the unreliable and fragmented data that comes to the attention of the designated school official often weeks or months after being reported to the registrar. The system would also look to receiving notification of the student/ev having completed or terminated their program within 30 days of program completion date in their record (or within 30 days of the next semester start date if they prematurely terminated and failed to re-register). Failure to receive the completion notification (or extension of program notification) or notification of premature termination from the school/program would result in notices to the school similar to that in steps 16 and 17 above.

19) If the school program confirms that the student/exchange visitor is a "no show" per item 17 above, or has completed or terminated his/her program per item 18 above, then CIPRIS would automatically flag the case as a "lookout" and would update the appropriate lookout systems to flag the record and update the appropriate lookout systems. Also, CIPRIS would transmit the record to the duty officer's electronic "action queue." In addition, if the record meets criteria for a terrorist threat assessment, the flagged record would also be immediately transmitted to the FBI and DIA duty officer's electronic "action queue" as well.

20) For any record flagged in CIPRIS as a "no show", "early termination", "failure to depart", etc. the Visa/ID card would immediately be tagged/coded by the system as invalid, so that any attempt by the alien to use the card for purposes of verifying employment authorization, re-entry to the U.S., or status to a local or federal law enforcement officer who has encountered the alien, would be stopped. The CIPRIS system would enable authorized officers to verify the Visa/ID card number by means of dial up computer, check through local law enforcement checks, or via an automated phone/fax back verification process available twenty-four hours a day, seven days a week.

In addition to all of the above, CIPRIS would have a complete relational data base on every school, training program and exchange program, electronic images of DSOs and RO's signatures, and a complete electronic file on each school or program to provide matches on lookouts based on schools and programs suspected of fraud and mala fide activities, that could be quickly checked or flagged prior to visa processing or in connection with any admission to the U.S. or benefit being applied for to the Service.

This program as formulated in 1999 was envisioned to be a joint partnership effort combining the resources and expertise of the INS, Department of State, USIA, Department of Education and Department of Treasury, working in close relationship with eligible schools, universities and exchange programs. As envisioned, a national CIPRIS was a very promising interactive system, and the concepts associated with electronic reporting via the internet was piloted in the Atlanta District with excellent feedback from all participants, public and private. This included the INS Atlanta International Airport POE, the INS Atlanta District headquarters examinations division, the INS Texas Service Center, the Departments of State and the former USIA. Also, 21 pilot institutions located in the states of Georgia, Alabama, North Carolina and South Carolina agreed upon and were active partners.

In October 1999, the month that I retired from over 32 years of government service, the INS suspended active development and development of the national CIPRIS program. No explanation was provided to me since I was no longer a federal employee, and the Headquarters' program leader, Mr. Morrie Berez was removed from his leadership role. The program was placed in a "suspended animation" format, and remained that way until the tragic events of September 11th. In October 2001 the program objectives were revised by the President and Congress and the INS commenced developing a program named the Student/Exchange Visitor Program (SEVP), and then changed it to SEVIS which it presently called.

A review of the current SEVIS program and its fact gathering, as well as its foreign student and institutional monitoring capabilities indicates to me a "dumbed down" version of CIPRIS. For example, a review indicates that of the 20 previously identified critical capabilities of CIPRIS, many of those important features have not been included, which I believe undermines the program's objectives. For example, there is no coordination with FinCEN for financial checking of the student's source of funds. Also, if the NIV is issued, and the student is admitted, and does not register within a 30 day period there is no procedure to interview the prospective student or take them into custody. A referral to Investigations in many cases would go unanswered since there is no written policy and minimal resources within Investigations to investigate this action. Also, the current student adjudicating officers

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have had minimal training, and realize the program will be transferred to BICE within a year. In my opinion, there is no resident expertise within BICE at this time knowledgeable of the rules and regulations governing the student and exchange visitor programs.

Additionally, for a school or university to participate in the SEVIS program after the application is filed it must be investigated by a contract investigator who is not a federal employee and lacks knowledge, understanding or mastery of the complex rules governing both foreign students, exchange visitors, and the schools/programs enrolling them. These contracts are now being awarded to contract firms, which send their poorly trained staff members to the schools based upon an I–17 application being filed, to assess their eligibility for participation. Instead of having this done within the 30 day designated time period, it runs now up to 3 months. Also, none of these contract investigators have federal investigator security clearance, nor in many cases any federal investigative experience, and as I said above, they also lack an even rudimentary knowledge and understanding of the rules governing students, schools, exchange visitors and exchange program sponsors.

Also, nothing still precludes non-student non-immigrants from attending courses at school and universities. Non-immigrants in classifications such as B–1, H–4, L–2, E–2 and others can take courses incidental to their authorized stay in the US, and in many if not all of the cases, BCIS would not be informed, aware or knowledgeable of their attendance, as there is no requirement for schools and exchange sponsors to report or track foreign students through SEVIS other than those in the F, J and M nonimmigrant classes.

Additionally, Congress may want to consider amending the Immigration & Nationality Act (INA) to add penalties for non-compliance with the provisions of SEVIS. For example, the INA could include language and provisions to explicitly bar any school, university or training program not authorized by BCIS from admitting, accepting or enrolling foreign students or trainees, under penalty of law and subject to fine. This could be similar to the I–9 employer sanctions process for employers where any employer failing to verify the prospective employee's work authorization would be subject to civil/criminal penalties with possible fine. Among the sanctions the schools or training programs could be at risk for would be debarment from Title V Funds in the Higher Education Act, disbarment from being eligible for VA GI Bill Funds, and training schools such as flight schools could have their FAA Certification withdrawn.

There are no requirements for any post-secondary school to report illegal alien students to a system such as SEVIS. The fact that adult aliens over the age of 18 who have somehow gotten into the U.S. can attend any college or vocational school as long as they have the financial means to pay means that an entire population (which may contain individuals wishing to harm the U.S.) is not subject to any reporting by the school to the government.

Finally, I should like to point out, that over 11 million United States Citizen college post secondary students, who receive Federal student financial aid, are electronically reported each semester by the school to the U.S. Department of Education as a condition for continued financial aid. The school reports their academic status, whether they are full time or part time, whether they're making "normal progress" towards their degree or certificate, whether they are maintaining good academic standing, etc. I would urge the Congress to re-evaluate and reconsider the relatively inequitable reporting situation, wherein vast numbers of foreign students (legal and illegal) are not subject to monitoring or reporting by schools to the government, while well over 11 million U.S. students receiving Federal financial aid or student loans are reported on by close to 8,000 schools each and every semester.

In closing, it should be noted that the CIPRIS Program was established to be a proactive search engine that would assist all users, but more important, that would "flag" violations, abnormalities and identify trends that could violate the program objectives. SEVIS, on the other hand, given the way it is configured, appears to be a "user friendly" database, with no serious or thorough means of ferreting out violators or trends, or cross checking with other pertinent governmental databases.

Thank you for the opportunity to comment

Mr. HOSTETTLER. Mr. Ward?

STATEMENT OF DAVID WARD, PRESIDENT, AMERICAN COUNCIL ON EDUCATION

Mr. WARD. Thank you. Mr. Chairman and Members of the Committee, I guess I am here to represent the foreign student position and that of the member institutions of ACE, which are essentially degree-granting institutions, approximately 1,800 in the United States.

The events of September 11 changed a great deal in this country and many of the policies and practices by which the U.S. welcomes international visitors and especially students have rightly been subjected to reexamination and sustained discussion. We strongly support that review.

We can make decisions about academic suitability of potential students and scholars, but we lack the information to determine whether a specific individual is likely to constitute a security risk. We will never be good at that. If the Federal Government, therefore, determines that a particular individual is a security risk, we do not want them to be in the country. We do not want them on our campuses. We strongly support the security program.

However, if an individual receives a student or exchange visitor visa, we have an obligation to help the Federal Government monitor them while they're in this country and we have a responsibility to advise them of the terms and conditions of their visas. We also have a responsibility to help them, in a sense, take advantage of their stay in the United States.

While we certainly cannot control everything they do, we can help ensure that they remain in status. SEVIS is a vitally important, if currently flawed, tool in this regard. In fact, we believe that the implementation of an effective, workable SEVIS is the single best step that the Federal Government can take to improve our ability to monitor international students and scholars who come to the United States.

But I fear that we are, for a variety of reasons, making it more difficult for international students and scholars to come to our country and complete their studies, scholarship, and research. This is mostly because enormous and complicated efforts have been made in a very short period of time. The result is a complicated set of new regulations, rules, and procedures that do not work very well at the present time.

We have repeatedly indicated a concern that this system was being implemented before it was fully operational. Last fall at hearings held by the House Education and the Workforce Committee and the House Judiciary Committee, the higher education community indicated that we did not believe that the SEVIS system would be operational in time for smooth implementation. The Department of Justice Inspector General also expressed doubts about the implementability of SEVIS at both hearings.

Sadly, our concerns have been justified. SEVIS was not ready and our campuses are confronting growing difficulties. Let me be quite specific, because we are supporting SEVIS. We simply wish to improve it.

SEVIS is technologically flawed. Many of our members have reported frequent data losses. Many have reported that their immigration forms have printed out on computers at other schools, often hundreds of miles away. Batch processing, which is crucial to institutions that need to enter large numbers of records, has worked intermittently, as best. And, of course, some schools still have not been able to use the batch feature at all.

Secondly, SEVIS does not provide real-time access, as promised. The system was designed to link schools, the State Department, and INS in real time. Delays can cause confusion at consular offices and embassies when students arrive to apply for their visa, only to discover that their SEVIS information is not available on the system.

Immigration and Naturalization Service, or its successor, has not really provided adequate training, and this point has been made by others, so I won't repeat it.

The INS service help desk can answer technical questions about SEVIS system, but is unable to answer regulatory questions. As a result, many officials are left to interpret the regulations on their own. The help staff, in my judgment, or our judgment, is understaffed and badly overworked, and it can often take up to a month to resolve a problem involving a single student.

There are two other issues that make the situation worrisome. Firstly, a dramatic increase in the number of new entries that will be made in the next 6 months, and secondly, the lack of regulations at the present time concerning the collection of fees.

The first issue is between today and October 1, an estimated one million additional records will be entered as colleges begin processing admissions for fall 2003 and we make up the backlog of students who are already here on a student visa. That is an enormous scale increase which will stress the system that is already greatly stressed.

On the subject of the SEVIS fee, the Federal Government still has not published regulations concerning how the fee will be collected. We understand the fee collection process will be totally separate from the process by which students are listed in SEVIS. Additionally, it may rely on traditional mail and paper receipts, undermining the original goal of creating an entirely electronic system.

Obviously, in a new world in which we live, the Government must put new security procedures and policies in place. We support these efforts and we have and will continue to work with Government agencies to meet these needs. We understand it will take some time before new policies and procedures begin to operate smoothly and we do have patience. At the same time, unfortunately, some of the steps we have taken are counterproductive, unworkable, and uncoordinated, and, in fact, the systems of communication between State Department, higher education, and the Immigration Service certainly are not smooth.

Let me just end by certain proposals here that might be helpful to the Committee. The SEVIS fee collection system needs to be rethought to simplify collection and to avoid yet another complex system plagued by delay and lost information.

Secondly, the Social Security Administration should be able to have access to SEVIS to verify work authorization before issuing Social Security numbers.

The State Department should use SEVIS system to ensure retail access of data. Currently, the State Department runs SEVIS data through their own system instead of using the secured Internet-based interface.

And finally, campuses' specifically designated school officials should be given broader access to SEVIS in order to correct clerical errors in initial form.

Mr. Chairman, I would like to thank you and Members of the Subcommittee on Immigration, Border Security, and Claims for holding this hearing. We hope that our comments are viewed as helpful in having SEVIS become the effective system we hope it will be, but it's certainly not at the present time. Thank you very much.

Mr. HOSTETTLER. Thank you, Mr. Ward, and all of your comments have been very helpful.

[The prepared statement of Mr. Ward follows:]

PREPARED STATEMENT OF DAVID WARD

Mr. Chairman, my name is David Ward and I am president of the American Council on Education (ACE). ACE represents 1,800 public and private colleges and universities. I am testifying today on behalf of those institutions as well as the 32 education and exchange visitor organizations listed at the conclusion of my testimony.

I have a deep professional interest in the issue that we are discussing today. As the former Chancellor of the University of Wisconsin-Madison, a major research university with 4,500 international students and scholars, I had the privilege of working with international students and scholars every day and saw firsthand the talents and skills they brought to my university and our country. I am also personally interested in this issue—I originally came to the United States as an international student in 1960, earned a Ph.D. and then left, as my visa required me to do. I returned to the U.S. later and became a U.S. citizen in the Bicentennial year of 1976.

The events of September 11th changed much in this country. Many of the policies and practices by which the U.S. welcomes international visitors have been the subject of examination and sustained discussion. We strongly support this review. We believe that the federal government has the responsibility to decide who may receive a visa to enter this country. Colleges and universities can make decisions about the academic suitability of potential students and scholars, but we lack the information to determine whether a specific individual is likely to constitute a security risk. If the federal government determines that a particular individual is a security risk, we do not want them to be allowed into this country and we do not want them on our campuses.

If an individual receives a student or exchange visitor visa, colleges have an obligation to help the federal government monitor them while they are in this country and we have a responsibility to advise them of the terms and conditions of their visas. While we certainly cannot control everything they do, we can help ensure that they remain in status. SEVIS is a vitally important tool in this regard. Indeed, we believe that the implementation of an effective, workable SEVIS is the single best step that the federal government can take to improve our ability to monitor international students and scholars who come to the United States.

I believe that international students and exchange visitor programs are extremely beneficial to this country and that the strongest justification for having such visitors is the benefits the United States derive from having them study in this country. For example, our economy is increasingly based on science and technology. As a result, it is in our economic self-interest to remain the destination of choice for the world's best minds—students and scholars alike.

This has been the case for the past 30 years and it has benefited this nation dramatically. For example, the rapid developments in information technology that helped fuel the economic growth of the 1990s benefited immeasurably from the international students and scholars from Southeast Asia who studied at American universities in the late 1980s. In the same vein, a central feature of the last decade's advances in biomedical research that will pave the way for future gains in the quality and length of life are the collaborative efforts between native and foreign-born researchers now taking place in thousands of American laboratories.

Second, in the current global climate, we need more and better efforts to enhance international understanding. One of the best ways to do this is through the everyday classroom discussions that one finds on college and university campuses. Candid discussion enhances familiarity—and familiarity leads to understanding. When international students and exchange visitors return home, they take with them a first-hand understanding of our country and our values. Indeed, some of America's strongest supporters abroad are those who have spent time in this country as a student or exchange visitor.

Third, international students add diversity to college classrooms. For many native-born students, international students offer the first chance for a sustained friendship with someone born in another country. As the world grows ever smaller, meaningful exposure to international students will better prepare American students to live, communicate, and compete in the global economy.

And finally, the economic benefits of international students and scholars are enormous. According to the Institute for International Education and NASFAA: The Association of International Educators, the nearly 600,000 international students who visit this country every year purchase some $12 billion a year in goods and services. They do this when they pay tuition, rent an apartment, buy a pair of jeans, order a pizza, or go to a movie. Of course, like everyone else, international students and exchange visitors pay taxes on the goods and services they purchase. If they are allowed to work while they are here, they also pay federal and state income tax.

According to the U.S. Commerce Department, higher education is the nation's fifth largest service-sector export. In an era when many policy makers and economists worry about our huge trade deficit, the presence of international students helps reduce it.

In short, the benefits of international students are unambiguous and overwhelming. So it is no surprise that President Bush has said: "The United States benefits greatly from international students who study in our country," or that he has committed his Administration to "continue to foster and support international students."

Secretary of State Colin Powell—no stranger to what is in America's international interests—says that international education "encourages and sustains democratic practices, creates a cohort of future leaders who understand each other's countries from the inside, and promotes long-term linkages between institutions here and abroad." The list of foreign heads of state that have studied at an American college is long and distinguished. The State Department has concluded that fully one-half of the world leaders who agreed to support our war on terrorism first came to this country as an international student or exchange visitor.

Colleges and universities are among the most open institutions in our very open society. The openness and the freedom that campuses provide individual students and scholars is a central feature in our widely admired system of higher education. To maintain this openness, we need to make certain that all potential students and researchers come here with the best of intentions, that they remain in compliance with all appropriate laws and regulations, and that we help the appropriate authorities monitor their academic activities and visa status.

But I fear that we are, for a variety of reasons, making it more difficult for international students and scholars to come to our country and to complete their studies, scholarship and research. This is mostly because enormous and complicated efforts have been made in a very short period of time. The result is a complicated set of new regulations, rules and procedures that do not work very well at the present time. Eventually, they will work well, but the damage to our reputation as the destination of choice may be seriously undermined before that happens.

Of particular interest to this Committee is the implementation of the Student and Exchange Visitor Information System (SEVIS). This is a large and complex information technology system that is designed to link all US embassies and consulates, all INS ports of entry, every institution of higher education that sponsors international students, and every exchange visitor program. Under the Patriot Act, INS was required to have implemented SEVIS. INS required colleges and universities to be in "full compliance" by January 30, 2003, a date they later extended to February 15th.

I believe that SEVIS is the single most important step that the federal government can take to improve its ability to monitor international students and exchange visitors and we strongly support its implementation. However, we have repeatedly indicated a concern that this system was being implemented before it was fully operational. Last fall, at separate hearings held by the House Education and the Workforce Committee and the House Judiciary Committee, the higher education community indicated that we did not believe that the SEVIS system would be operational in time for smooth implementation. The Department of Justice Inspector General also expressed doubts about the implementability of SEVIS at both hearings.

Sadly, as we feared, SEVIS was not ready and campuses are confronting enormous difficulties. The simplest way to characterize these problems is to say that the Immigration and Naturalization Service implemented this system before it was fully tested. Campus officials are now dealing with the failure to adequately prepare this system before it was launched.

SEVIS suffers from three serious problems:

First, SEVIS is technologically flawed. Schools report that SEVIS frequently 'loses' data that has been properly entered into the system. Many schools report that their immigration forms have printed out on the computers of other schools. For example, official government immigration forms that Stanford University in Palo Alto, California, attempted to print were later discovered at Duke University in Durham, North Carolina; forms for Michigan State University appeared on the printer at Arizona State University. Most worrisome, perhaps, confidential SEVIS forms printed by the Jet Propulsion Laboratory—a secure government installation—were printed at a school in San Francisco. Although INS claims to have fixed this problem—known as "bleeding"—we learned from at least one campus official that it continues. Batch processing, which schools need to submit large amounts of data, works intermittently at best. Some schools have not been able to make batch processing work at all and at other schools it works intermittently. Finally, unlike any other information technology I have worked with, SEVIS does not allow errors that may occur to be corrected, even typographical mistakes.

These technological flaws can have serious consequences for students. Consider this very recent example: an international student advisor submitted an I–20 form to enable a student to apply for Optional Practical Training. Although the form was filled out correctly, SEVIS lost (or did not "capture") two pieces of required information—the dates the training would start and finish. This error could not be corrected by the school. Thirty days ago, the school contacted the SEVIS help desk (Level 1) and was issued a ticket (or a receipt) acknowledging the problem. On March 4, the SEVIS help desk (Level 2) called and asked for more information, which was provided that same day.

Despite daily phone calls to the SEVIS help desk, this student's case remains unresolved. The campus director of International Education recently wrote to me: "Both the student and the department have a difficult time understanding that there is nothing that can be done to correct the issue. I have a difficult time explaining that I am doing everything I possibly can. The student has an amazing job lined up at a leading worldwide financial services firm and will lose his job if this problem cannot be corrected in time. Will SEVIS be corrected? Will he lose his job? I do not know what else I can tell the student or his program directors."

Second, contrary to promises, SEVIS does not provide real-time access to data. SEVIS was designed to link schools, the State Department and the INS in real time. This is a reasonable goal for an electronic information system. Unfortunately, SEVIS does not yet provide these linkages in a timely fashion. For an extended period in February, no data was transmitted because the INS did not configure the system to transmit data automatically and failed to do a manual transmission of the data. Some embassies and consulates find that it takes a week or longer for them to access data entered into SEVIS. This means that students arrive at an embassy—sometimes after traveling a great distance—only to be told (incorrectly) that their data has not been entered into SEVIS and that they may not apply for a visa. In fact, their data is in SEVIS—that's the only way they could receive an I–20 form—but the SEVIS data has not been forwarded to the consulate. The bottom line is the same—without timely consular access to the SEVIS data, a student or scholar may not apply for a visa. These delays cause confusion and frustration for embassies, students and schools.

Third, the INS has not provided adequate training to anyone. Training is critical for the successful implementation of any new information technology system, yet the INS has provided almost no training to campus officials or even to its own staff. One campus official recently visited an INS regional service center and learned that the center did not know how to identify SEVIS documents and had not been provided with any training. The campus official was asked to help INS officials understand what they were supposed to do. Regional INS officials have not been adequately trained and therefore often provide different answers to the same questions.

INS's SEVIS Help desk can answer technical questions about the SEVIS system but is unable to answer regulatory questions. As a result, school officials are left to interpret the regulations on their own. Moreover, the help desk is understaffed and badly overworked. It typically takes more than four weeks to resolve a problem involving a single student.

Two factors make this situation even more worrisome. First, the volume of information in SEVIS is about to increase dramatically. Between now and August 1, we conservatively estimate that an additional one million records—approximately 250,000 per month—will need to be entered in SEVIS. We do not believe there is any chance that SEVIS will be able to accommodate this huge surge of information and are deeply concerned that it will play havoc with students, colleges, universities, and consular and immigration offices, alike.

Second, the federal government still has not published the regulations specifying how the SEVIS fee will be collected. Under the law, potential international students must be registered in SEVIS and they must pay a SEVIS fee. The government has not yet begun to collect the fee but there are indications that it plans to do so in the very near future. While no regulations have been published, we understand that the fee collection process will be totally separate from the process by which students are listed in SEVIS. Moreover, fee collection will reportedly rely on traditional mail and paper receipts and thus dramatically undermines the promise that SEVIS would be an entirely electronic system.

We have proposed ways to simplify the collection of this fee but federal agencies have been unwilling to consider them. We believe that adding a poorly designed paper based fee collection process to a poorly functioning SEVIS system at the same time that the volume increases sharply is a prescription for disaster.

I emphasize that the federal government must decide who receives a visa to study in the United States. International students and scholars who are of concern to the government should not receive a visa. Speaking as a former university president and a devout supporter of international education and scientific research, I do not want any individuals on a college campus if the government has any reasonable concerns about them. I do not want them in our nation's classrooms, dormitories, laboratories, or libraries. I do not want them to have access to scientific equipment or even to extracurricular activities.

But the U.S. economy is fueled by innovations in science, engineering and technology. Given the innovation-driven nature of our economy, it is important that the U.S. continue to remain the destination of choice for the world's best students and scholars.

Obviously in the new world in which we live, the government must put new security procedures and policies in place. We support these efforts and we have and will continue to work with the government to meet security needs. We understand that it will take some time before new policies and procedures begin to operate smoothly. At the same time, unfortunately, some of the steps we have taken are counterproductive, unworkable and uncoordinated. The costs associated with these new policies are higher than desirable and necessary. We fear that some of the new policies and procedures may well make the nation a less desirable and welcoming place for international students and scholars and this will force some students to choose to go elsewhere. The loss to our economy and our scientific enterprise will be incalculable and profound.

We believe that there are several measures that could be taken right now to address a number of the current and future problems with SEVIS:

- The SEVIS fee collection system needs to be rethought to simplify collection and to avoid yet another complex system plagued by delay and lost information. The issue is not whether there is a fee or how much the fee will be. The issue is whether INS will launch an unworkable system. We believe that there are ways to streamline fee collection but these steps would require collaboration between INS and the State Department, collaboration that the State Department has been unwilling to provide. Most importantly, this needs to be fixed now, before INS launches it.
- The Social Security Administration (SSA) would like to have access to SEVIS to verify work authorization before issuing social security numbers. Giving them such access would reduce the administrative burden on colleges and would improve the efficiency and effectiveness of the SSA. However, INS has been unwilling to give SSA access to the system. We strongly recommend that the INS give SSA access to SEVIS as soon as possible.
- The State Department should use the SEVIS system to ensure real time access of data. Currently, the State Department runs the SEVIS data through their own system instead of using the secured Internet-based interface. This often results in the loss of data and undermines the promise of a single computer system used by all parties.
- Campuses—specifically Designated School Officials (DSOs)—should be given broader access to SEVIS in order to correct clerical errors in the initial form. (For example, a field of study change, correction of gender, name spelling.) Minor changes should not require direct involvement by the INS to correct, especially since it commonly takes four weeks or more to make the correction.

Mr. Chairman, I would like to thank you and the members of the Subcommittee on Immigration, Border Security, and Claims for holding this hearing on the development and implementation of SEVIS and the impact on U.S. campuses. I wish to assure you and the members of this Committee our strong commitment to the implementation of SEVIS. But, to do this, we ask that our campuses be given the tools and the regulatory guidance to achieve this goal while ensuring that international student and scholars are not discouraged from study and research in the U.S. Thank you for the opportunity to testify this morning.

On behalf of:
Alliance for International Educational and Cultural Exchange
American Association of Community Colleges
American Association of Higher Education
American Association of University Professors
American Council on Education
American Dental Education Association
APPA: The Association of Higher Education Facilities Officers
Association of American Medical Colleges
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of International Education Administrators
Association of Jesuit Colleges and Universities
Council for Advancement and Support of Education
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
Educational Testing Service
Hispanic Association of Colleges and Universities
NAFSA: Association of International Educators
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Independent Colleges and Universities
National Association of State Universities and Land-Grant Colleges
National Association of Student Financial Aid Administrators
National Collegiate Athletic Association
National Council for Community and Education Partnerships
National Council of University Research Administrators
The College Board
United States Student Association
University Continuing Education Association

Mr. HOSTETTLER. We will now enter a round of questions, and I will tell the Subcommittee that we will probably be able to do a second round of questions and we are going to try to hold as close to the 5-minute mark as possible.

Mr. Williams, first of all, as I understand it, all aliens who apply for student visas abroad are interviewed in person by a consular official, but aliens who change from another non-immigrant status to that of an alien student in the United States do not. Why don't aliens who change status to non-immigrant student in the United States receive in-person interviews?

Mr. WILLIAMS. Well, first, let me say that the interview for the visa process is handled by the Consular Office abroad. As far as changing status from one non-immigrant status to another, it may involve a personal interview. It may not be required, but it also can be required. Depending on the information at hand, we could require and very often do require that interview.

Mr. HOSTETTLER. How is that determined? Excuse me. How do you determine whether an interview is to be taken?

Mr. WILLIAMS. That would be determined, of course, on the particular non-immigrant status that was being changed, the information at hand, if the person had been maintaining status, a number of key elements that our adjudicators would use to make that decision.

Mr. HOSTETTLER. Is that discretionary on the part of the adjudicators or is that a regulation? Is that a guideline within the Department?

Mr. WILLIAMS. That is discretionary.

Mr. HOSTETTLER. Okay. Thank you.

Mr. Fine, you state in your testimony, "In the past, alien smuggling rings were operated from within legitimate schools by individuals who were involved with the school's foreign student programs." Who are these "individuals involved with the students' foreign student programs" that you are talking about?

Mr. FINE. We have seen instances where designated schools' officers, the ones who are involved with the I–20's and the students, have used them to sell visas and have been prosecuted for that. In fact, there was one in Atlanta University. Mr. Fischer was probably——

Mr. FISCHER. Morris Brown.

Mr. FINE [continuing]. Morris Brown University—knows about this—was a legitimate school but an illegitimate person there using the program to sell I–20's and visas, and so we have seen instances of that, where legitimate schools use it for illegitimate purposes.

Mr. HOSTETTLER. Thank you. Mr. Fischer, you spoke eloquently about the CIPRIS system and you also stated that it was your experience that in October 1999, it was scaled back significantly to, I think you said, what, life support?

Mr. FISCHER. Minimal life support.

Mr. HOSTETTLER. Minimal life support. Let me ask you a question. Had the system been up and running a little bit better than minimal life support in 2000–2001, when the September 11 hijackers entered the U.S., would that system have possibly taken a part in preventing those attacks? Could it have?

Mr. FISCHER. I've asked myself that many times. Speculation, obviously. But the way the system was moving and the databases that we were ratcheting up and incorporating on a regular basis, it would have been much more difficult for any individual who had a desire to undermine our country's national security to perhaps receive an F–1 student visa, or a B–1, in many cases, but an F–1 specifically, because of the database that we were going to establish.

I'm pretty confident that there would have been some flags, and that was the whole key. Flags would have been basically raised, and I think then the consular officer or the inspector at the port of entry or a defense intelligence analyst or a CIA operative, depending on how we had this established, and FINCEN, because you're talking about a source of funds. You're talking about where is the money coming from? Who is supporting this student? He or she has to show a source of funds. They can't come over here on scholarship. So who really owns the bank account? And that's what we were leading to and that was going to be part of our program.

Mr. HOSTETTLER. And SEVIS today doesn't have any type of FINCEN type of——

Mr. FISCHER. Not to my knowledge, sir.

Mr. HOSTETTLER. Exactly. Very good.

And then, finally, Mr. Ward, in your statement, you indicate that your organization has proposed ways to simplify the fee that is supposed to be imposed on students to pay for the student tracking system, but that Federal agencies have been, in your words, unwilling to consider them. What payment methods has your organization proposed to simplify that fee?

Mr. WARD. Well, all visas now require payment time and we just propose that it be added at the time and be collected at the consular office so that—and then they transmit that fee to the new INS. Right now, it'll be a separate paper trail, and for many folks who don't have the appropriate credit, it will be complicated. It will be, it seems to me, quite easy for the State Department to collect this fee and transmit it to INS.

Mr. HOSTETTLER. Thank you very much. Why, in your opinion, has the Government been unwilling to consider those proposals?

Mr. WARD. Well, I think part of this is the problem of two agencies. I think you have to ask the Department of State and INS about that. I think there's just some reluctance on the part of Department of State, maybe legitimate reluctance, if I might say so, about collecting money on behalf of another agency about which it may have had some insecurity.

Mr. HOSTETTLER. Very good. Thank you.

The gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Mr. Chairman, as I indicated, we are between a markup and voting and your Committee. Ms. Lofgren has an amendment in that Committee. May I ask her to—if you will allow her just to say a word with respect to her opening statement? She is about to offer her amendment in the Science Committee.

Mr. HOSTETTLER. Sure. Yes.

Ms. JACKSON LEE. I would ask the Chairman, without objection.

Mr. HOSTETTLER. There is no objection.

Ms. LOFGREN. I thank the gentlelady, and Chairman, just very quickly, I asked Stanford University, not a university we are in doubt of as to their legitimacy, to do a compilation yesterday of the problems that they are facing with SEVIS and they gave me an about seven-page missive that I would like to make a part of the record and give to Mr. Williams so that he might answer all of the questions they have.

But I will just say this. I actually was a fan of CIPRIS, but I don't think that SEVIS is a better system. Whether CIPRIS was scalable is a question I had. But this system doesn't work, and although I am for creating a database that works, that's accessible by consular officers, by—at the border and also by schools and this, this is not there yet, and I guess the question I have is how are we going to make this system work?

We have got, right now, the technology is actually defeating the law. People who have a right to take certain actions under the law can't do it because the fields will not allow the law to be implemented. The schools—I mean, if a school like Stanford University, that's full of computer scientists and has resources, can't make this work, I wonder about some of the smaller State colleges who have less resources and how they are possibly going to make this work.

So I am eager—both Ms. Jackson Lee and I are on the Homeland Security Committee, so we will see you there, as well. The Science Committee is looking at it. Everybody is looking at it. But by the time I see you next, I am hopeful that I can get answers to these questions, and I thank the gentlelady for yielding.

Ms. **Jackson Lee**. I want to thank the gentlelady from California. She has a great interest in this area, and I thank the witnesses for their indulgence and recognizing the many talents that we think we have. Mr. Chairman, thank you for your indulgence, as well.

Let me direct my questions to the Inspector General, and thank you for your presence, along with the other witnesses. You have done a thorough analysis of where we are with respect to SEVIS, and I think the key bottom line is if we are to make a jump start, obviously, we need resources, and you are in the midst, and do you think the Bureau, and now the Homeland Security combination, meaning that, as you well know, the INS and most of its responsibilities, if not all, are in the Homeland Security Department, concern out of what you have analyzed is whether there are any resources to do this.

As you answer that question, let me prepare David Ward for if he can balance his position on the issue of moving as fast as we're moving, what would be your counter-suggestion? You've heard the testimony. You know that our intent is to secure the nation, to secure universities, but also to give that wonderful educational opportunity of exchange.

So, Inspector Fine, you have mentioned that we have inadequate training for the implementators. We have inadequate training for the universities, and I can account for that. I have the University of Houston in my district, Texas Southern University, and any number of others. How can we pointedly get right to the problem?

Mr. **Fine**. I think we do need more resources, as you've pointed out. The INS and now the Department of Homeland Security agrees with that. I think they need more resources and more training. They need more resources for oversight of the contractors. They need more resources to solve these technical problems that are emerging that we are all hearing about more and more. And they need more resources to use the information. It is one thing to have a system, but it is another thing to use that information appropriately, so when they find problems, when they find anomalies, when they find potential fraud, they need to refer it to the appropriate investigators to follow through with that. We haven't seen that, and I think a significant issue is the resources devoted to it.

I also think a significant issue is the continuity of supervision. It has been an adjustment. It's moving from one part of the INS to another part, the Department of Homeland Security, and I believe there needs to be accountability. There needs to be one person, one program manager to ensure that all these issues are dealt with in a timely and effective way, and I am concerned about what is happening as we're transitioning into the Department of Homeland Security.

Ms. **Jackson Lee**. So if there was something that this Committee—this is an authorizing Committee, but if there was something that this Committee would do, it would be to assess your report and listen to the other witnesses, but to provide the additional resources because we have some cracks in the armor, if you will, in terms of implementation. I'm very concerned about the oversight on contractors. I think you recall the glaring embarrassment after 9/11, egregious embarrassment of sending some documentation to deceased terrorists, and obviously was a contractor which did an enormous mea culpa, it wasn't me, but it was certainly something that would not give us comfort. So the oversight over contractors is important to you?

Mr. FINE. Absolutely. We did that report on it and described the failure of the INS to adequately oversee the contractor, who then mailed off the change of status notifications to the schools 6 months after the September 11 attacks, and we did see a problem with the supervision of the contractors. We clearly see a problem in the supervision of the contractors here. We're doing the on-site reviews. We've found contractors whose checklists are incomplete, contractors who didn't go to the school or didn't complete their on-site review because the school was closed or because the classes weren't in session, and we found when we talked to some of the INS adjudicators that the contractors' reports were not very usable. So we do believe there needs to be more adequate oversight over the contractors' work.

Ms. JACKSON LEE. Well, just to, if I may—thank you very much, Inspector Fine—go to David Ward. Just in that one embarrassing situation, it means that the students were actually in school with no documentation because it came a long time after they had—obviously, talking about 9/11, there were these individuals being trained in the United States with no documentation because it had not come officially to the school.

Mr. FINE. Well, the adjudication had occurred. It was the notification of the school that occurred in a belated fashion. They——

Ms. JACKSON LEE. Correct, and the school is to be notified in a more timely fashion.

Mr. FINE. We said that the adjudication and the notification was untimely and significantly flawed.

Ms. JACKSON LEE. Very important. Thank you very much. Mr. Ward?

Mr. WARD. I think some of the answers I would give you would be related to the organizational culture of the entity, which is, in a sense, a security entity on the one hand and yet a service agency on the other hand, and the mixing of those two cultures is a real problem. And I do think the feedback or communication mechanism from the universities who are trying to enter data into SEVIS is just very weak. There is no systematic way to deal with that. I think there needs to be a much more systematic feedback mechanism.

Secondly, there has not been, I think, a scan which allows us to determine what is an exceptional mistake and what is a systemic problem. Some mistake could just be the odd thing that will not be repeated and can be fixed. If they're systemic and cause a backlog, they need to be fixed.

But right now, even though I think toward the end of the old INS era, higher education developed—good communication was beginning, I think, to feel it was being heard and, therefore, responsive to semantic problems. I think we have not fully reestablished with the new organization the kind of feedback mechanism that would help us solve these problems.

Mr. HOSTETTLER. The gentlelady's time has expired.

Ms. JACKSON LEE. I thank the Chairman.

Mr. HOSTETTLER. The chair now recognizes Mrs. Blackburn.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

I am going to pick up where the gentlelady from Texas left off and, Mr. Fine, come right back to you. If the oversight for the INS contractors is inadequate and you all seem to sit here and say there is a problem, what is the next step for rectifying that and what type oversight plan do you have, what type training plan do you have?

Mr. FINE. Well, I think to one extent, that should be a question directed to Mr. Williams. I do believe that there is a problem with oversight. I believe that when we suggested this, when we recommended to the INS that they spot-check the contractors, they indicated that they didn't think that was necessary because it was a reputable contractor. Even so, I believe that you may trust them, but you need to verify it. You need to spot-check what they are doing and the INS did not do that.

With regard to training, I think it's very important. The training is critical, and they have taken some steps to train both their own officials and the schools, but I don't think it's sufficient. I think it needs to happen more. I think there might need to be an online training program for schools' officers. I think there might need to be a representation, a certification that the INS employees have received the training and understand what needs to be done. I think more effort needs to be done rather than what has been done up until now, but I think Mr. Williams perhaps could address that issue, as well.

Mr. WILLIAMS. Thank you. Let me first say we welcome all the input. My staff is down here writing copiously, so—we also work with everyone at this table on any issues they have that we haven't written down. So we seek your input.

Let me say we have taken the Inspector's report very seriously. We've also reviewed our processes laboriously and we've compared notes with the schools and the associations. We intend—we intend to make all corrections to customer service issues that we can.

As far as oversight to the contractors, we take that seriously, as well. Along with the approved fee, we will be implementing a quality assurance plan. We will be looking at all aspects of the software system, the people that are inputting the system, and oversight for those compliance officers.

We do say, and state again publicly, that the SEVIS system is important to us. It is important to America. We intend to make the system work. We do need a viable software system that tracks and collects the information. We also need a strong compliance and investigative enforcement piece to make the system work.

Mrs. BLACKBURN. Let me ask you something else there. On the SEVIS system, now, how much money have you spent in developing that software and developing that system?

Mr. WILLIAMS. Well, let me answer this way. I'll get you a much more accurate figure, but we are allocated the $38 million and that is the budget we are spending on developing that software.

Mrs. BLACKBURN. Just on software development, not on the implementation and not on training?

Mr. WILLIAMS. On the entire process.

Mrs. BLACKBURN. The entire process?

Mr. WILLIAMS. Plus some resources also that aren't included in that $38 million.

Mrs. BLACKBURN. Thirty-eight million. Now, Mr. Ward said that the fee collection system would be adequate for collecting the fees if that were followed up on. Are you using the fees you collect as any type of offset on the cost of the system?

Mr. WILLIAMS. I think the question about the fees, yes, we do need those fees in order to have the system whole. We need the revenue. Congress intended for this to be a fee-based system. Depending upon the fees, we planned it that way. So depending on the fee regulation as it comes out, we hope to make the system robust in customer service and just as robust in enforcement.

Mrs. BLACKBURN. Okay. One more thing for you, and I think this would be directed to you, maybe to you, Mr. Ward, but the students that were in the country before SEVIS came in, how are you going to ensure that they are included and are placed into this system?

Mr. WILLIAMS. All of our planning includes a phased-in system. All new students must begin to be enrolled as of February. All students, those recurring students and those currently enrolled, will be in the system by August 3 of this year.

Mrs. BLACKBURN. Okay, all of them. Okay, and thank you.

Mr. Fischer, you said that CIPRIS was a promising system, that you had excellent feedback from the participants, from the public schools, private schools. But yet you said that the former INS Deputy Commissioner halted that pilot system, and I want to know why you think it was halted.

Mr. FISCHER. The program never developed. It basically went on suspended animation, as we call it, and to my knowledge, SEVIS replaced CIPRIS. CIPRIS is—I retired in the first week in November 1999. I heard after I retired that CIPRIS was basically put on hold, or the progress of development was halted. It was allowed to continue without any development, enhancements, in the Atlanta District, and I believe at perhaps the Texas Service Center, which is in Dallas, Texas, but it was not allowed to mature as we hoped it would be and integrate the other databases and the relationships that we had established with the Department of Education, Department of State, USIA, Department of Treasury, and the like, let alone the schools that were partnered with us, and we had over 400 schools in the Atlanta District at that time. We had identified 21 schools—Clemson, Duke, Mercer, Shaw, vocational schools that had flight training, English as a second language. We went the whole gamut.

I've been out of the INS since November 1999, and why it was is speculation on my part, I think, Congressman. You'd have to probably ask the former Commissioner and Deputy Commissioner why they suspended it. But we thought it was an excellent program, excellent.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

Mr. HOSTETTLER. I thank the gentlelady.

The chair now recognizes Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Mr. Chairman. I was not here for the majority of the testimony, so I hope you'll all indulge me with just a couple questions that I may have, even though it may be information that you've already discussed.

Mr. Williams, I understand that right now, there is a problem with the SEVIS system and "bleeding," which is where information about a student, instead of going to School A, winds up at School B, and while that certainly is not—that is an issue that particularly concerns me because it raises privacy concern issues that I have. And I understand that a contractor has been hired to try to address that specific problem. Has any progress been made in that problem of bleeding?

Mr. **WILLIAMS**. Thank you. Let me say that we're concerned about that issue, as well, data migration. "Bleeding," of course, doesn't quite capture it. It's not profusely bleeding, but we have problems in that system and any problems there is not acceptable.

We have hired a very respected contractor. They are on-site now. They are going through that system now. They are very confident we are going to find the solution to that piece of—glitch in the system, and yes, we intend to have that issue fixed in pretty fast order.

Ms. **SÁNCHEZ**. Do you have a target date for when the majority of these problems——

Mr. **WILLIAMS**. I would, but I will say as soon as possible, you'll have me back up here answering why it didn't happen. I'm going to tell you this. We're going to work on this project. We're going to keep focusing on it until it's fixed. It is an issue. It's a very important issue. We intend to tackle it with whatever means necessary to get it fixed.

Ms. **SÁNCHEZ**. Okay. And one of sort of the recurring things that I'm hearing here is somewhat of a lack of resources and a lack of oversight and enforcement. Is there an oversight or an enforcement mechanism for the work that this contractor is doing on this specific problem?

Mr. **WILLIAMS**. We're working alongside of them with our technicians. We have our very own agency technicians, as well, that are partnering with them to make sure that we're aggressively working that problem, and I feel confident that we will overcome that issue.

Ms. **SÁNCHEZ**. Okay. Thank you very much.

Inspector Fine, I understand that INS adjudicators have not been properly trained for performing school adjudications, and I'm wondering if there are any plans to incorporate some suggestions in terms of how we can train these adjudicators to make adjudications.

Mr. **FINE**. We have made suggestions to the INS that adjudicators need more training. They need not only technical training on what the checklists are, but what to do with them and what to look for, how to look for fraud, what kind of indicators they should be seeking to determine whether a school is not bona fide or whether there are problems with the school. So I do believe there needs to be more training. There has been some training by the INS, but when we went back and talked to the adjudicators, some of them found it difficult to understand and not particularly useful, so I think there needs to be more emphasis placed on that.

Ms. **SÁNCHEZ**. Thank you. Mr. Fischer, I understand that you made a recommendation to Congress that we consider adding penalties for noncompliance with SEVIS. Given the problems that INS has had in overseeing the current system, do you think that it's particularly realistic that INS would be able to impose those penalties evenly and appropriately and in a timely manner?

Mr. FISCHER. I think so. I think they should be on the books, at least, because there really is no penalty in many cases for violators of the program.

I'd like to even go back if I may, please, to the contractor issue. I find it, with my 32 years of former Government experience, when I've dealt with contractors, whether they be on computer systems, whether they be with engineering issues, with establishment of offices or whatever, that it's difficult to pin them down, the accountability and responsibility. You can cancel a contract, but you can't really direct that person. Our service centers probably have 90 percent of their workforce as contractors. They open the mail. They handle the checks, sensitive documents, things like that.

Here, we have a very, very sensitive program that's going to be with us in a better fashion, hopefully, down the road. I don't know if I would want to trust investigating schools or establishing compliance guidelines and doing important things like that to somebody who's not even a Federal employee and perhaps never even had a records check done on them. I have difficulty with that—or could quit at a moment's notice and be replaced by somebody else.

And the adjudicator is the one who is gathering that information, supposed to be getting it in 30 days. Now, it is over 3 months. I have trouble with that. And the money issue, I mean, what price do you pay for quality?

But if I may go back to your original question, I still think, yes, Congress should consider having some sort of penalty assigned to the individuals who are overseeing programs, training, whatever the case may be, if there are violations. Now, the Inspector General mentioned the case at Morris Brown, where you had a DSO, a Designated School Official, who was selling I–20's and sold numerous I–20's for tens of thousands of dollars to individuals who were never enrolled in school. Now, I'm not saying that the school should be penalized. I think the individual should be. I think that person should be accountable. I suspect the U.S. Attorney, I know, is taking the case because the INS investigations did an excellent job in the Atlanta District of ferreting this out.

But this is the same type of thing that needs to be done with a system, and I—what Dr. Ward said, I agree 100 percent. It needs to be systematic, but it needs to be user friendly but still help that DSO, help that inspector, help that consular officer. And there's no reason in 2003 that we can't develop something, and $37 million, Congresswoman, that is a lot of money.

Ms. SÁNCHEZ. I appreciate your comments. I share many of your comments, and I thank you for your thoughtful answer and I'd yield back the balance of my time.

Mr. HOSTETTLER. I thank the gentlelady.

I would like to now enter into a second round of questioning and kind of from the gentlelady's first question with regard to the issue of "bleeding," Mr. Williams, in your comments, you refer to the issue of "bleeding," and that is where the unintentional merging of data from one school to another which results in the printing of legitimate student information at the wrong institution. You refer to it as an issue of privacy and not accuracy.

Dr. Ward describes in his statement a bleeding incident in which confidential SEVIS forms printed by the Jet Propulsion Laboratory, a secure Government installation, were printed at a school in San Francisco. Would you not also say that, from time to time, this may be an issue of national security as well as privacy?

Mr. WILLIAMS. I think any system flaw in SEVIS is of concern and it should be repaired. We are concentrating on that. We are going to fix it. Any deviation from a planned process is a concern.

Mr. HOSTETTLER. Thank you. Mr. Fischer, if I can return to you, in your statement, you say that the visa that was issued under the CIPRIS system was a "credit card-sized combination visa/identity card." It included biometric features like a fingerprint and a photograph. What were the advantages of such a card from a law enforcement viewpoint?

Mr. FISCHER. Right now, Mr. Chairman, I–20's—when a student comes over—when a school—when a student is accepted academically, that school will generate an I–20. That I–20 is sent to the student. The student takes that I–20 into the embassy or to the post. The post will review it, hopefully run through the system. If everything's okay, post will issue in the passport a non-immigrant visa F–1. When that student comes here to the States, he or she will fill out a white I–94, arrival/departure card, and when they're admitted, on that card will normally be D/S, which is duration of status, no date to leave the country. They're here as long as they're fully matriculated in a school that's approved. They have a paper I–20 with them with a bar code.

Right now, some of the ports can't even read the bar code. It's a difficult program. It's a paper program. When you have paper, you run the risk of manipulation, you run the risk of problems, whatever the case may be.

We envisioned and we factored into the CIPRIS program a biometric—sort of like a credit card. It would have on the front your fingerprint, your photo. On the back would be data, sort of like the I–551, the "green card," where there is material in there, whether it be your mother's first name, your father's first name, your place of birth, your date of birth, that somebody can basically query that person to see if it's legitimate.

And through that card, basically all the information, whether it be the issuance of employment authorization documents, whether it be the ability to travel back home—we look at it as a feature for the student to use and for the schools to get out of this paper trail business that leads to a lot of problems.

For some reason that—and the card would be secure, obvious, which is the name of the game. It would be secure, with good data built into it that the school and the student and the DCIS and BICE and Homeland Security and the FBI and State could read, and that's the advantages that we saw. It never went beyond, I guess, October 1999, unfortunately.

Mr. HOSTETTLER. Mr. Williams, is there anything in law that precludes SEVIS from including biometric information?

Mr. WILLIAMS. Mr. Chairman, we are considering biometrics, all kinds of different things in the future. We know to put a system like that in place in a quick time frame would have been next to impossible.

I do add, though, that the SEVIS system is not taken as a single component of the law enforcement function. We have access to the State Department, the POE data, the non-immigrant information, the visa application, people that are enrolled in our new NSEERS program have a biometric and a digital photograph.

I also comment at the Service Center, that one component that was asked earlier, we have very professional intel research specialists backed up by now a dedicated crew of investigators to look over those applications.

So, as you mentioned, our new appointed Assistant Secretary, Michael Garcia, is focused on this as a law enforcement component, as well. We are continuing to focus on making those kind of improvements in the future, as well.

But as I mentioned in my opening testimony, this mosaic of homeland security does have connectivity. I know you're familiar with the data share capabilities, as well.

Mr. HOSTETTLER. And just in closing, I understand the point about the timeliness for the system to be put in place, but there are a lot of us that are very interested in the usage of biometrics with regard to immigrants and non-immigrants, the folks that are visiting this country, and so we would like to continue work with you on improving SEVIS to the point where some of the things that worked with CIPRIS can be moved over into SEVIS.

Mr. WILLIAMS. We look forward to that, as well.

Mr. HOSTETTLER. At this point, Ms. Sánchez, do you have any other questions?

Ms. SÁNCHEZ. No further questions, thank you.

Mr. HOSTETTLER. Ms. Blackburn, any——

Mrs. BLACKBURN. Yes, I do. I have just a couple. Thank you, Mr. Chairman.

Mr. Fischer, back to you and to the discussion that we were having about the former INS Deputy Commissioner halting the CIPRIS system, I guess it's a little perplexing to me that a system that seemed to carry information that would be deemed to be superior to the system that replaced it, why that decision was made.

So what I want to ask is, what did you do with—or what was done with that data and that information from the CIPRIS system? Was that used as a building block from the SEVIS system, or SEVIS or however this is properly pronounced? Is this integrated into the other systems that track those that have visas and are in our country? And the final question would be, how much money was spent on that CIPRIS system before it was pitched, thrown out?

Mr. FISCHER. I don't know the amount of money. It was——

Mrs. BLACKBURN. Could you find that for us, or could someone?

Mr. FISCHER. I don't know the amount, and I don't think it was substantial. It was more labor intensive because of the partnership that we generated with the schools and universities and the different departments.

When the program was suspended, I retired. I don't know specifically what was carried over. The program up to that time, Congresswoman, that was developed was allowed to continue in the Atlanta District until SEVIS went online. So certain aspects, obviously, I would think—and that's speculation on my part—were carried over. But I really don't have the answer to that because I've been out of that Federal loop for three-and-a-half years. I apologize.

Mrs. BLACKBURN. A problem. Mr. Williams, did you have something to add?

Mr. WILLIAMS. Yes. I would just add that the data that was in CIPRIS is, in fact, in SEVIS.

Mrs. BLACKBURN. It is? Okay.

Mr. WILLIAMS. I will say, too, that, just for clarification purposes, I wasn't around then. I was working on the other coast. But it's my information that it was, indeed a pilot program. It was a wide-parametered piloted program to test the ability and scalability of a large amount of data and how could you take this large amount of data which was—and then apply it to 1.5 million students.

It did form the basis of our thinking when we began the SEVIS project now, and with consultation with the educational associations and the schools, decisions had to be made on what you could put out, what was available. So the CIPRIS system did, in fact, provide the basis for our thinking and what we are doing now with SEVIS.

Mrs. BLACKBURN. Excellent. And do you have an idea of what the cost was on that pilot program?

Mr. WILLIAMS. I believe the cost was minimal. I would venture a guess, but I think it better that I provide you with that, so if you wouldn't mind, after the——

Mrs. BLACKBURN. That would be wonderful. Thank you.

And then finishing that, the system, the SEVIS system that is in place, is that integrated with other systems or do you maintain it separate and secure or what is your data tracking and transfer?

Mr. WILLIAMS. It is available to different—it's one of the data share processes. The State Department has that, has accessibility to that system. Our Port-of-Entry Inspectors have accessibility to that system. And it's not necessarily a stand-alone system when it comes to law enforcement. It provides us with the best, the freshest locating information if it's necessary for us to go after a person that did violate their status. That's why it's so important that it remain current.

Mrs. BLACKBURN. Excellent. Thank you very much. I appreciate that.

Mr. HOSTETTLER. If the gentlelady will yield, I'd like to ask one additional question.

Mrs. BLACKBURN. I'll yield.

Mr. HOSTETTLER. Mr. Williams, when will the fee regulation come out with regard to this system?

Mr. WILLIAMS. I hope very soon.

Mr. HOSTETTLER. Very good. And are there plans to hire more investigators with that fee?

Mr. WILLIAMS. Depending on the outcome of the fee, we will make resource decisions. Again, I would just reemphasize that to make this system whole, there has to be a law enforcement component. The system has to have compliance and has to have consequences.

Mr. HOSTETTLER. I want to thank the panel for being here today. I will just say in closing, Mr. Williams, you've heard a lot about the issues with the SEVIS system. I want you to know that this Committee is dedicated, as Ms. Jackson Lee pointed out, to hearing about and understanding the resources necessary to make SEVIS work for everyone, from the foreign students to the user schools as well as our law enforcement personnel. We will hold, or this Committee will hold ICE responsible for the proper administration of this program and its effectiveness and efficiency, and so knowing that, we want you to understand that we want to know about the resources you need to make it effective and efficient. This is a significant issue. This country has been touched significantly on September 11 by issues related to tracking students, non-immigrant aliens who come in to study in this country, and this Committee will be following up on this.

I want to likewise thank all of you gentlemen for appearing today, for testifying before the Subcommittee.

I just want to tell the Subcommittee that the record will remain open for 7 days for any additional materials that you'd like to have added.

This Subcommittee's business is adjourned.

[Whereupon, at 4:22 p.m., the Subcommittee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Prepared Statement of the Honorable Sheila Jackson Lee, a Representative in Congress From the State of Texas

We need to keep track of foreign students while they are in this country, but I want to emphasize that the primary reason for doing this is to enforce our immigration laws, not to search for terrorists. Despite news reports to the contrary, only one of the 9/11 terrorists entered the country on a student visa. Eighteen entered on B visas, either as tourists or as businessmen. After arrival in the United States, two of the terrorists, Mohammed Atta and Marwan Al Shehhi, applied for a change to student status. They were planning to attend flight school and, despite not technically needing to be in M–1 vocational student status to do so, they ostensibly wanted to comply with any regulations that were arguably applicable to avoid attention.

Nevertheless, a successfully implemented SEVIS program is needed to increase the Bureau of Immigration and Customs Enforcement's ability to track and monitor foreign students and exchange visitors in order to ensure that they arrive in the United States, show up and register at the school or exchange visitor program they are scheduled to attend, and properly maintain their status during their stay in our country. SEVIS can make it easier for us to identify those who may come to America for the wrong reason, while extending our welcome to those seeking the knowledge that the schools of this country have to offer. But, it must be done in such a way as to maximize the effectiveness of our increasingly limited national resources.

International students and exchange visitor programs are enormously beneficial to the United States. They dramatically increases the knowledge and skills of our workforce. They boost worldwide appreciation for democracy and market-based economics and give future world leaders first-hand exposure to America and Americans. They bring greater international understanding to the world at a time of great turmoil.

Many world leaders have attended American universities, including United Nations Secretary General Kofi Annan, Jordan's King Abdullah II, and Mexican President Vicente Fox. Each year, thousands of international students return to their homelands as proponents of American values, democracy, and the free market. Without these unofficial ambassadors for the American way, our country's image is more susceptible to the spread of misinformation and propaganda by those who would do us harm. Curtailing international exchanges would only serve to deprive our nation of one of its best tools for extending American influence in the world.

The task of entering the data for the SEVIS system must be performed by the schools. The schools will feel the effect of any push to implement the SEVIS system at a more rapid pace. It is a gigantic task. Moreover, the delays and technical problems with the system have exacerbated this problem. I have heard of significant computer problems such as that SEVIS sometimes will inexplicably, and apparently randomly, reset or change data. For example, the status of full-time enrolled students have been changed from "active" to "terminated." The computer software must be bug free and reliable for the SEVIS system to work properly.

Mr. Chairman, I hope that we can continue to work cooperatively and in the true spirit of bipartisanship to ensure the successfully implementation of the SEVIS system. I believe that we can create an effective system that will eliminate many of the risks our nation is concerned about, without discouraging the talented men and women from different countries from coming to the United States to study and to exchange creative thought and ideas.

Thank you, Mr. Chairman.

SEVIS Problems Encountered by Stanford University

April 1, 2003

Compiled By:

John Pearson
Director
Bechtel International Center
Stanford University
P.O. Box 20227
Stanford, CA 94309
Phone: 650-725-0889
FAX: 650-725-0886
http://www.stanford.edu/dept/icenter

1) SEVIS Help Desk Personnel Often Provide Contradictory and Wrong Information

a) When the Help Desk was asked how to create SEVIS I-20s for continuing students during breaks between quarters (when there is no current session end date), we were told that we should use the end date of the session that just ended. When we attempted to do this, SEVIS would not accept this information format. The problem was ultimately resolved only after we explained the new problem to Help Desk staff who told us to do something different - use any data prior to the start date of the next session.

b) When a student applies for post-completion practical training after we learn that he/she will be graduating at the end of the quarter (and therefore will not enroll the following quarter), we asked the Help Desk what date to use for the next session start date when that student begins practical training. The Help Desk advised us to do two different things: 1) Use the start date of the practical training; 2) Use any date because it does not matter as long as the practical training begins within 60 days after the program end date. We have yet to receive clarification on which date to use.

2) The SEVIS Help Desk And The Local Service Center Provide Information That Contradicts Each Other

a) Instead of issuing an I-20 for initial attendance, the Help Desk has advised us that a student must file for F-1 reinstatement if that student has been away for over five months. On the other hand, the Local Service Center sees no need to do a reinstatement in this situation since reinstatement is primarily used when a student violates his/her legal status.

b) Traditionally, the Local Service Center has allowed Optional Practical Training (OPT) extensions when a student has applied for less than the maximum twelve months allowed by law. In addition, form I-765 allows OPT extensions of current OPT permits. However, the SEVIS Help Desk has told us that such extensions are impermissible. There appears to be no understanding by SEVIS personnel in Washington, D.C. on how schools and Local Service Centers have operated in the past relating to specific circumstances.

3) The Local Service Center Has No Guidance On SEVIS And Has Yet To Convert to SEVIS

a) Not only do we have to comply with the computer-based SEVIS program, we are also still required to follow-up with paper copies to the Local Service Center. We are essentially doing two jobs now - the traditional paper-based system to the Local Service Center and the new computer-based SEVIS system.

b) Our Local Service Center has no established SEVIS guidelines and has received no guidance from headquarters in Washington, D.C. There is no SEVIS official in the Local Service Center that can provide us guidance on the countless number of Optional Practical Training issues, issues that have been traditionally dealt with at the Local Service Center level.

4) Not Enough Properly Trained Staff At The SEVIS Help Desk Past 3:00 PM, Pacific Standard Time

The help desk closes by 6:00 PM Pacific Standard Time. However, there never appears to be "Tier Two" representatives available after 3:00 PM Pacific Standard Time. Tier Two representatives appear to have stronger training to assist in more complicated SEVIS problems. If there were relatively few complicated problems, this would not be an issue. However, every Help Desk question I have submitted since the beginning of March has been elevated to, at least, a Tier Two representative. We seem to have arrived at the end Tier One usefulness and instead need to beef up Tier Two support with extended hours.

5) Corrections Received And Corrected By The Help Desk Take Too Long

When we submit a problem to the Help Desk for correction, the Help Desk takes too long to correct the problem. For example, a student's program dates were missing after we submitted his record to SEVIS on March 11, 2002. A help ticket was entered that day and we have yet to see a correction to the problem three weeks later.

It appears this problem is a symptom of the lack of immigration-trained SEVIS Help Desk staff. We are often told that our questions require further screening with better trained staff.

6) The SEVIS Computer Program Appears To Be Dictating Immigration Law, NOT the Other Way Around

Just one example is the student who decides to cancel his Optional Practical Training (OPT) to pursue a new degree. Although this is permitted by law, we are forced to advise students not to apply to until they have finished their OPT because there is no way to withdraw OPT authorization in SEVIS. There may be a way to issue a new document, but the student will still have the OPT petition pending.

7) Honest Data Entry Errors Are Difficult To Correct

When we make honest entry errors in SEVIS, we have to call the Help Desk to correct the problem. In some cases we have to wait two-three weeks while the SEVIS Help Desk tries to fix the problem. For example, we have to contact the Help Desk if we enter an incorrect start date and realize the mistake after the data has been entered. There needs to be some ability for Designated School Officials to correct these honest clerical errors without too much difficulty.

8) Port Of Entry Officials Lack SEVIS Training

Immigration officials at ports of entry are not well trained on SEVIS. Consequently, students with valid documents have been reprimanded at ports of entry, turned away or asked to enter under tourist visas. Although we provide our students with the most up-to-date and valid SEVIS information available before they arrive at the port of entry, students encounter problems not anticipated by SEVIS or our staff. For example, current SEVIS regulations allow students to use non-SEVIS documents to enter the country before August 1, 2003. However, some port of entry officials require SEVIS documents now.

9) J-1 Visa Issues Have Not Been Addressed By SEVIS Personnel

There is absolutely no guidance on J-1 issues. If we call the State Department, they tell us to contact the SEVIS Help Desk. If we call the SEVIS Help Desk, they tell us to call the State Department.

10) Consulate Problems Accessing Dependant Records

a) Two of our students have spouses who cannot be found in SEVIS by the Shanghai Consulate. We have help tickets out with the Help Desk on these. Incidentally, I obtained this help ticket only after explaining to Help Desk staff that Shanghai is a city in China, not a country like Singapore.

b) Another one of our students has been waiting over a month for his wife's approval. This appears to be an issue of data not being uploaded on time to reflect dependent information when consular officials review visa requests. However, the Help Desk tells us that "uploads" are being done every other day.

11) Lengthy Visa Clearances Affecting SEVIS

Lengthy visa clearance processes are affecting when a visa for entry can be issued. For example, we have students that applied in June of 2002 but have not received clearances to continue school or begin their studies. This may mean we will have to issue new SEVIS documents. Questions will arise as to how long we should wait before we issue new SEVIS documents and how to cancel previous documents. None of this has been addressed by SEVIS.

12) Schools With Larger Foreign Student Populations Are Having Many More Complicated Problems Than Schools With Smaller Foreign Populations

Although we have made tremendous efforts to comply with SEVIS, it is much more difficult task for us to comply with SEVIS by August 1 than it is for smaller schools. We have 2,889 foreign students enrolled in this academic year while many other schools have less than 100. It would make more sense to have a later deadline for larger schools who will obviously encounter many more complicated problems than smaller schools.

13) Entering Data in SEVIS Is A Very Lengthy Process Full Of Technical Difficulties

It can take a significant amount of time to create a document. Creating documents in Real Time Interactive has been extremely slow, has lost data and has logged us out countless times. When we contact the Help Desk about these problems, we have been told to enter data when the "East Coast" has stopped using SEVIS so that the system is not too burdened. This means we are working on SEVIS after Tier Two staff leaves the Help Desk, thereby leaving us with very little help when we need it (see Problem #4).

14) Navigation In SEVIS Is Time-Consuming and Difficult

It is difficult and time-consuming to reach a specific page in SEVIS Real Time Interactive without having to scroll through all pages in order.

15) SEVIS Provides No Proof Of Changes

If a student applies for a one-year post-completion practical training and then, quite legitimately, is accepted to a new degree program, the regulations state that the optional practical training is automatically cancelled in SEVIS. However, we are never provided proof of this automatic cancellation and are, therefore, unsure whether the student is registered in the new degree program in SEVIS.

16) No Clarification On Enrollment Report Due Date

SEVIS regulations require us to submit an enrollment report each term, thirty days after the end date of registration for that term. This date is determined at each institution and is now standard. Because this means that enrollment reports will be sent at varying times by different universities with different registration end dates, we asked for clarification. Despite the regulation requirement calling for enrollment reports thirty days after the end date of registration, we were told by the Help Desk that enrollment reports are due thirty days after the start of the term. We later heard that enrollment reports are due within 90 days of the beginning of the term despite the regulation dictating thirty days after the end date of registration for that term. As of today, we have received no clarification on this point. Submitting a late enrollment report could potentially cause thousands of students to fall out of status.

CONCLUDING REMARKS

Overall, my sense is that the rush to comply with the January and August deadlines is causing considerable confusion in implementation and articulation of SEVIS procedures. There are a number of conflicts between SEVIS regulations and SEVIS software requirements. The Help Desk is very limited, often providing incorrect advice that conflicts with SEVIS regulations, immigration law, and practices at Local Service Centers. There is no clear plan as to when Local Service Centers will convert to SEVIS and provide accurate SEVIS information. Furthermore, now that the Immigration and Naturalization Service has been absorbed by the Department of Homeland Security, we have received very little guidance on who is responsible for SEVIS.

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